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Oliver Wolcott

1726-1797

AMERICANA

October, 1914

The Wolcott Family

Arms—Argent a chevron between three chess rooks ermined.

Crest—A bull's head erased argent, armed or; ducally gorged, lined, and ringed, of the last.

Motto—*Nullius addictus jurare in verba magistri*—bearing the name of "Wolcott."¹

THese arms are of great antiquity. Copies of the shield etched on the silver tankard and cup of Governor Roger Wolcott (1679-1767) and engraved on the tombstone or tablet of Captain Samuel Wolcott (1679-1734) in the old Windsor church-yard, apparently are not copied from each other or from books of heraldry, but point to a traditional copy which has disappeared. Chess-rooks were introduced early in the fifteenth century through a knight of whom it is recorded in the old family pedigree:

"Playing at ye chesse with Henry ye fifth, King of Englande, he gave hym ye checke matte with ye rouke, whereupon ye kinge charged his coate of armes which was ye crosse with flower de lures, and gave him ye rouke for a remembrance."

"It seems these Chess-Rooks were at first called Rooks for being in defence of all ye rest; and therefore they stande in ye uttermost corners of ye Chesseboard as Frontier Castles."

"King William ye Conqueror lost great Lordships at this playe. And it might well become a Kinge, for therein are comprised all ye Stratagems of Warr or plotts of Civil State."²

The name of Wolcott in England has been traced back to the year 1525 by H. G. Somerby, the antiquarian. At that period

1. Arms registered in the College of Arms of Canada.

2. "Herald's Visitation."

the family was seated at Tolland. William and Thomas were the names for that year. He also found that the Somersetshire family invariably spelled the name *Wolcott*, while in Shropshire, Lincolnshire, and other places it is written *Walcott*. He found in the register of the parish church at Lydiard, St. Lawrence, adjoining that of Tolland, the following entries:

"Henry ye sonne of John Woleott was baptiz'd the VI of December, 1579.

"John son of Henry Walcott was bap. 1st of Oct. 1607.

"Henry Woleott and Elizabeth Sanders were married 19 January, 1606."

Mr. Somerby made numerous notes other than the ones mentioned, and he also prepared an elaborate genealogical table which carries the family back to the eleventh century in Wales and traces its descent through a titled Walcott family in Shropshire. In doing this, he based his argument on the similarity of family arms and names. As the table is conjectural and not authenticated, we, for the present purpose, omit a copy of this genealogical table. He begins the English line of the first American ancestor, Henry Woleott, of Windsor, with John Wolcott, the elder, of Tolland, whose will was dated November 10, 1623, and proved January 16, 1624.

From the Subsidy Rolls are found in different branches of the family at this period contemporary *Johns* and *Henry's*; therefore, the lineage of Henry Woleott, of Windsor, cannot with certainty be traced through wills or through any other papers that have come to light. This much is established: the good standing of the family socially and morally as British freeholders, supporters of religious institutions and of the government under which they lived, and in man and horse equipped for wars of the time.

I

HENRY WOLCOTT, the founder of the family in America, was born in Tolland, near Tannton, Somersetshire, England, and baptized in the contiguous parish of Lydiard, St. Lawrence, December 6, 1578, the second son of John Wolcott, of Tolland. He was a member of Mr. John Warham's church at Exeter,

Devonshire, England, who was selected as pastor of the new church to be organized in the new world, in which office he was installed at the inauguration of the church at Plymouth, England, in 1630; transferred to Dorchester, Massachusetts Bay Colony, May 30, 1630; removed to Windsor, Connecticut, in 1635, where he erected a church and continued his labors up to April 1, 1670, when he "slept in the Lord."

Henry Wolcott sold his estates in England for about eight thousand pounds sterling, and was one of the passengers on the ship "Mary and John," Captain Squib, master, who set out to form a colony in the new world. His fellow passengers included the Reverend Mr. John Warham, Mr. John Warham, Mr. John Marrick, Mr. Edward Rossiter, Mr. Roger Ludlow, Mr. Roger Clap, and other members of Mr. Warham's church and congregation from Devonshire, Dorsetshire, and Somersetshire. While awaiting in Plymouth the sailing of the ship, they organized the independent church to be planted in the new world, which became the First Church in Windsor, the oldest in the state of Connecticut. The ship left the port of Plymouth March 20, 1630, and arrived at Nantasket, after a voyage of two months and ten days, May 30, 1630, and as it was the Lord's Day they delayed their landing until the next day, May 31, 1630.

On the first day of the meeting of the first general court assembled in Boston (not as representatives but as individual freemen), before representatives had been chosen, Henry Wolcott's name appears in the first list of freemen made so by the oath of allegiance prescribed by the colonial government and he became a member of the first legislative body of the Massachusetts Bay Colony. The company remained in Dorchester, Massachusetts Bay Colony; spies had been sent out to view the lands in the wilderness of Connecticut, and through information gained from the Dutch settlers of New York they learned of the available tract of land on the Connecticut river, where they were hospitably received by the Indians, and the report of John Oldham and the others of the exploring expedition determined the bodily removal of the church in the care of Mr. Warham to this promising land. In 1634 they applied to the general court for permission to go in quest of new adventures in a better land.

In the summer of 1635 a number of Mr. Warham's people prepared to bring their families and make a permanent settlement at Windsor. The journey proved full of peril, entailing property loss as well as personal hardship.

In 1637 the first general assembly of Connecticut was organized, with Henry Wolcott as a member of the house of representatives, which comprised twelve members and in this way he became a pioneer in the organization of civil government in both Massachusetts and Connecticut. In 1640 his name headed the list of inhabitants of Windsor; in 1643 he was elected to the house of magistrates, the higher branch of the legislature, and he was annually re-elected during his lifetime. He was esteemed, next to the minister, as the most distinguished man in Windsor. By the decease of his elder brother, Christopher Wolcott, without issue, he became proprietor of the family estates in England, which included the manor house and mill, and in 1640 he visited England in the interests of his acquired estate. On January 11, 1640, he was granted from the plantation, for a home lot, twelve acres; also, in the great meadow, twenty-two acres, and in the Plymouth meadow eight acres; and also at Herteford sixty-eight acres, and over the great river twenty-four acres, besides other valuable tracts. He continued as an honored citizen of Windsor and a member of the upper house of the colonial legislature up to the time of his death. His will, which was dictated on the day of his death, mentions his wife, and sons Henry, Christopher, George, and Simon, his son Henry being named as overseer of his will and testament. This will was proved October 4, 1655. His widow survived him about five weeks, and died July 7, 1655, having signed her will by her mark, July 5, 1655, not being physically able to hold a pen to enable her to write her name. The inventory of the estate, exclusive of the property in England, amounted to seven hundred and sixty-four pounds, eight shillings and tenpence, which sum in no measure represents the large expenditures which he made during his lifetime in making settlements and assisting his fellow colonists of lesser means in planting and fostering the early English colonies on the Connecticut River. His body, with that of his widow, found sepul-

ture in the church-yard in Windsor; here an arched monument of brown-stone marks the place, and this is said to be the oldest monument of this style in the country. Around it are monuments marking the graves of their children and children's children. The monument to Henry and Elizabeth Wolcott was erected only thirty-five years after the landing at Plymouth of the "Mayflower" passengers, and it is still in perfect preservation, and the church which they helped to organize in Windsor observed its "Quarter Millennial Celebration" in 1881.

Died, in Windsor, May 30, 1655.

Married, January 19, 1606, Eliazbeth, daughter of Thomas Saunders, of Lydiard, St. Lawrence, baptized in that parish December 20, 1584.

Issue:

1. John Wolcott, baptized October 1, 1607; d. in England, without issue, previous to the date of his father's will, and no mention occurs in the family records.
2. Anna Wolcott, who, with Mary and Simon, came to America between 1631 and 1641; married, October 16, 1646, Matthew Griswold, of Windsor, Connecticut.
3. *Henry Wolcott*, of whom below.
4. *George Wolcott*, of whom below.
5. Christopher Wolcott, who immigrated with his parents and two older brothers in 1630, never married. He received from his father the family homestead, which passed to his sisters and brothers when he died in Windsor, September 7, 1662.
6. Mary Wolcott, m., June 25, 1646, Job Drake, of Windsor, and she and her husband d. the same day, September 16, 1689.
7. *Simon Wolcott*, of whom below.

II

HENRY WOLCOTT, second son of Henry and Elizabeth (Saunders) Wolcott, was born in Tolland, Somersetshire, England, January 21, 1610-11. He came with his parents to New England in 1630; was admitted as a freeman of Massachusetts Bay Colony by the General Court at Boston, April 1, 1634;

removed with his parents to Windsor, in 1636, and was an importing merchant trading between the Connecticut colony and England, making a trip to England in 1654. He is one of the nineteen colonists named in the charter of Connecticut; was made a representative in the house of deputies in 1660, and a member of the house of magistrates from 1662 to the time of his death. His note-book of about four hundred pages, closely written in shorthand of his own invention, and not deciphered until 1857, contains valuable historical dates, texts, and general outlines of sermons by Warham, Hunt, Hooker, and Stone during sessions of the general and particular courts, including election sermons of Mr. Hooker on May 31, 1638, and April 11, 1639. He also gives data of his experience in raising fruit, and his apple orchard is on record as having been the finest and largest in the Connecticut valley and as having produced five hundred hogsheads of "Syder" in one year. This orchard was in bearing before 1649, and for twenty years after 1650 he supplied young trees, summer and winter apples, and cider by the hogshead, gallon, or pint to the people of Windsor and nearby settlements, and exported to other colonies.

Died, in Windsor, July 12, 1680.

Married, November 18, 1641, Sarah, daughter of Thomas Newbury, who died July 16, 1684.

Issue:

1. Henry Wolcott, b. June 6, 1643.
2. John Woleott, b. February 28, 1645.
3. Samuel Wolcott, b. October 8, 1647; d. May 10, 1648.
4. Sarah Wolcott, b. July 5, 1649; m., June 6, 1674, Captain John Price, of Salem, Massachusetts.
5. Mary Woleott, b. December 6, 1651; m., June 2, 1679, James Russell, of Charlestown, Massachusetts.

GEORGE WOLCOTT, third son of Henry and Elizabeth (Saunders) Wolcott, was born in Tolland, Somersetshire, England. He came with his parents and family to New England in 1630 and removed with them from Dorchester, Massachusetts Bay Colony, to Windsor, Hartford Colony, in 1636. He was

made a freeman by the general court of Connecticut, May 21, 1657.

Died, at Wethersfield, Connecticut, February 12, 1662. He made his will January 19, 1662, in which he names his wife, Elizabeth, his sons George and John and daughters Elizabeth and Mercy, and names as his estate housings and lands in Wethersfield.

Married Elizabeth Treat, and settled in Wethersfield.

Issue:

1. Elizabeth Wolcott, b. June 20, 1650; m., December 15, 1686, Gabriel Cornish.
2. George Wolcott, b. September 20, 1652; m., August 30, 1691, Elizabeth Cortis, and had ten children. His estate was valued at £840.
3. John Wolcott, b. August 5, 1656, and was living at the date of his father's will in 1662.
4. Mercy Wolcott, b. October 4, 1659, was an invalid in 1687.

SIMON WOLCOTT, youngest son of Henry Wolcott and Elizabeth (Saunders) Wolcott, was born in Tolland, Somersetshire, England, about September 11, 1624, or 1625. Being an infant when his father, mother, and brothers sailed for the new world, he remained with his two sisters, their parents not wishing to submit them to the hardships they knew they would encounter in selecting and building a home. The date of his arrival in America is not on record, but we find him before the general court of Connecticut Colony in 1654, at which time he was thirty years of age, and was admitted to all the privileges of a freeman of the colony.

He settled on land on the road to Hartford, opposite his father's homestead in Windsor, which land he had purchased from Goodman Whitehead. We then find him possessed of a grant of land in Simsbury in 1667, at which time he was prominent in town affairs. In 1668 he was a member of a committee appointed by the general court to supervise planting by the new settlers. He removed from Windsor to Simsbury in 1671, and was made captain of the train band of the new town, August 11, 1673,

and a selectman of the town in 1674. During King Philip's War all the settlers of the town were driven from their homes by the Indians, and it is said that he hid the silver belonging to the family in a brass kettle and buried the kettle and contents in a swamp near the house, and it sank too deep and was never recovered. In 1680 the general court granted him two hundred acres of land, and at that time he was one of the six pioneer settlers to be honored by the honorable title of "Mr." He removed across the river in 1680 with his family, and began to clear a farm on his grant. He had begun to build a new house and to clear the land for cultivation, but had made little progress when he died, wherenpon his widow and sons took up the work and completed his plans, in which his widow was assisted by her second husband.

Died in Simsbury, Connecticut, September 11, 1687.

Married, 1st, March 19, 1657, Joanna Cook, daughter of Aaron Cook, a pioneer settler of Windsor. She was born August 5, 1638, and died April 27, 1657.

Married, 2d, October 17, 1661, Martha Pitkin, sister of William Pitkin, of East Hartford, attorney-general and treasurer of the colony, and before the charter an assistant of Massachusetts Bay Colony. From him descended the honorable Pitkin family of Hartford. She was born in England about 1640 and died at Simsbury, Connecticut, October 13, 1719, aged eighty years. She married as her second husband, in 1689, Daniel Clark, who took up the work on the new farm laid out by Simon Wolcott and completed the house and became the head of the family, bereft so early in life of a father's care. Of his mother, Governor Roger Wolcott says: "She was a gentlewoman of bright and natural parts, which were well improved by her education in the city of London. She came to New England in 1661, and the same year was married to my father. The rest of her useful life she spent in the wilderness in doing good and setting an example of piety and prudence, charity and patience."

Issue (all by second wife):

1. Elizabeth Wolcott, b. August 19, 1662; m., December 10, 1680, Daniel Cooley, of Long Meadow, Massachusetts.

2. Martha Wolcott, b. May 17, 1664; m., January 6, 1686, Thomas Allyn, of Windsor.

3. Simon Wolcott, b. June 24, 1666; m., December 5, 1689, Sarah Chester, daughter of Captain John Chester, of Wethersfield. Issue six children.

4. Joanna Wolcott, b. June 30, 1668; m., September 2, 1690, John Colton, of Long Meadow, Massachusetts.

5. *Henry Wolcott*, of whom below.

6. Christopher Wolcott, b. July 4, 1672; d. April 3, 1693.

7. Mary Wolcott, b. in 1674; d. in 1676.

8. William Wolcott, b. November 6, 1676.

9. *Roger Wolcott*, of whom below.

III

HENRY WOLCOTT, second son and fifth child of Simon and Martha (Pitkin) Wolcott, was born in South Windsor, Connecticut, May 30, 1670. He was one of the original proprietors of Tolland and Wellington, Connecticut, and was a man of affairs in his own town. He and his family are said to have been of unusually tall stature. He located himself on the main street in East (now South) Windsor, about a mile south of the present meeting house, and the house which he there built was torn down and the material used in the erection of the "Old Wolcott Homestead." This house was preserved the longest of the early Wolcott homes and was the birth-place of Henry's great-grandchildren, the children of his grandson, Samuel Wolcott. It was torn down when the ownership passed out of the Wolcott family, only during the last generation, and was probably the site of the original family seat on the east side of the river.

Died in November, 1746.

Married, 1st, April 1, 1696, Jane, daughter of Thomas Allyn of Windsor. She was born July 22, 1670, and died April 11, 1702, after the birth of her second child.

Married, 2d, Rachel, (probably Taleott), who died January 8, 1725.

Married, 3d, April 11, 1727, Hannah, widow of John Wolcott.

Issue: (by first wife)

1. Henry Wolcott, b. February 28, 1697; m., December 27, 1716, Abigail Cooley, of Long Meadow. Issue: i. Benjamin Wolcott. ii. Jane Allyn Wolcott. iii. Abigail Wolcott. iv. Penelope Wolcott. v. Tryphena Wolcott. vi. Henry Wolcott. vii. Christopher Wolcott. viii. Simon Wolcott. ix. Peter Wolcott. x. Martha Wolcott.

2. Thomas Wolcott, b. April 1, 1702; m., August 12, 1725, Catherine Loomis. Issue: i. Thomas Wolcott. ii. Miriam Wolcott. iii. Linke Wolcott. iv. Jane Catherine Wolcott. v. Redexelana Wolcott. vi. Rachel Wolcott.

Issue: (by second wife)

3. Peter Wolcott, b. between 1703 and 1709; m., May 30, 1733, Susanna (Hamlin) Cornwall, widow. Issue: i. Giles Wolcott, m. Sibyl Alden, and left four sons.

4. Rachel Wolcott, m. Joseph Hunt.

5. Jane Wolcott, b. October 20, 1710, d. March 16, 1711.

6. *Gideon Wolcott*, of whom below.

ROGER WOLCOTT, youngest child of Simon Wolcott and Martha (Pitkin) Wolcott, was born in Windsor, Connecticut, January 4, 1679. In 1680 his parents removed to the west side of the Connecticut river opposite Windsor, and at that time there was no school or church in the neighborhood and he was instructed solely by his parents. His father died when he was eight years of age, and before the farm house and buildings were completed or his proposed farm cleared. The widowed mother and her children took up the work, and, as expressed by the youngest son when governor of Connecticut, "we never wanted." When eleven years of age he could read and write, and when fifteen years of age he left the farm to learn the trade of clothier. On January 2, 1699, he established himself in business as clothier on his own account in Windsor.

He was made selectman of the town in 1707, and deputy to the general assembly in 1710. As commissary of Connecticut stores for the colonial militia, he took part in the expedition against Canada in 1711, and on his return home he was made a

counselor to the colonial governor in 1714; judge of the Windsor county court in 1731; judge of the superior court of the colony in 1732; deputy governor and chief judge of the superior court in 1741. In 1745 he attained the rank of major-general of the colonial army by his services at the siege of Louisburg, his commission being signed by Governor Shirley of Massachusetts and Governor Law of Connecticut, he having led the Connecticut troops in the expedition against Cape Breton. At this time he was sixty-seven years old, and except the Reverend Mr. Moody, the oldest officer in the service. Speaking of this service he said, "It was a tough business. Divine Providence appeared wonderfully in our favor and should forever be remembered with thankfulness." On returning from this successful expedition, he was received with popular applause, and in 1750 he was elected governor of Connecticut. He served up to 1754, when he was retired by the will of the voters who were offended by his want of action in reference to aiding the Spanish merchant vessels, which had taken refuge in New London harbor. The governor defended his course by asserting that the owners of the cargoes had neglected and delayed to notify the governor, and when the case reached the king's council, he was absolved from all blame and public favor was in a measure restored. In the election of 1755 he was again a candidate for governor and lacked only two hundred votes of re-election. He therupon retired from public life.

In 1704 he built a mansion house which withstood the storms of two centuries, and upon the panels, which were taken from the house when demolished and which have been preserved, are paintings representing scenes of the attack of the Indians on the pioneer settlers of Deerfield, which is historically known as the "Massacre of Deerfield." He was the author of three notable books: "Political Meditations; Being the Improvement of Some Vacant Hours" (1720); "A Tract on a Controversial Letter of New England Churches" (1761); "A Brief Account of the Agency of the Honorable John Winthrop, Esq., in the Court of King Charles II. A. D. 1662;" a poem of fifteen hundred lines, in which he gave a description of the Pequot War, the original manuscript of which is preserved among the archives

of the Connecticut Historical Society, and was first printed in the Collections of the Massachusetts Historical Society; and "Letter to the Freemen of Connecticut; (1761).

Died in East Windsor, Connecticut, May 17, 1767.

Married, December 3, 1702, Sarah Drake, daughter of John and Mary (Wolcott) Drake. She was born May 10, 1686. She was a descendant in the twenty-first generation from William the Conqueror.

Issue:

1. Roger Wolcott, b. September 14, 1704.
2. Elizabeth Wolcott, b. April 10, 1706; m., August 24, 1727, Roger Newberry, of Windsor.
3. Alexander Wolcott, b. January 20, 1708; d. an infant.
4. Samuel Wolcott, b. January 9, 1710; d. December 22, 1717.
5. Alexander Wolcott, b. January 7, 1712; killed by a cart-wheel, October 8, 1741.
6. Sarah Wolcott, b. December 10, 1713; d. same day.
7. Sarah Wolcott, b. January 31, 1715; d. January 5, 1735, "in an extasie of Joy over Death."
8. Hepzibah Wolcott, b. June 23, 1717; m. John Strong, of East Windsor, November 10, 1737.
9. Josiah Wolcott, b. February 6, 1719; d. January 29, 1802.

Twins—

10. Erastus Wolcott, b. February 8, 1721; d. May 10, 1722.
11. Epaphrus Wolcott, b. February 8, 1721; d. April 3, 1733.
12. Erastus Wolcott, b. September 21, 1722.
13. Ursula Wolcott, b. October 30, 1724; m., November 10, 1743, Matthew Griswold, afterwards governor of Connecticut.
14. *Oliver Wolcott*, of whom below.

IV

GIDEON WOLCOTT, youngest child of Henry and Rachel (Talcott) Wolcott, was born in East (now South) Windsor, Connecticut, in 1712. He commanded one of the companies raised by the colonists in 1760 to protect the settlers from the depredations of the French and Indians and was thereafter known

by his rank as "Captain Gideon." The oak tree still standing on the site of the seat of the Wolcotts at South Windsor is believed to have been planted in his early childhood by his father.

Died June 5, 1761. The inventory of his estate at his death was rendered at two thousand, five hundred and seventy-five pounds, two shillings and three pence. The following epitaphs are found in the family burial grounds:

"In Memory of Capt. Gideon Wolcott, who departed this life June 5th, A. D. 1761, in the 50th year of his age."

"In Memory of Mrs. Naomi Wolcott, late Relict of Capt. Gideon Wolcott. She was born in East Hartford, March 1st, 1721, and died Nov. 7th, 1775. Be ye followers of them who through Faith and patience inherit the promises."

Married, 1st, Abigail, daughter of Samuel Mather of Windsor. She was born May 3, 1718, and died in June, 1741.

Married, 2d, Naomi, daughter of Deacon Joseph Olmsted of East Hartford.

Issue:

1. Abigail Wolcott, m., April 9, 1764, Charles Rockwell, of South Windsor.
2. *Samuel Wolcott*, of whom below.
3. Naomi Wolcott, b. September 28, 1754; d. April 16, 1782; m., February 8, 1780, Reverend William Robinson of Southington. (Yale College A. B., 1773).
4. Gideon Wolcott, b. November 28, 1756, d. in 1806.
5. Elizier Wolcott, b. April 12, 1760; d. September 20, 1828; m. Elizabeth, daughter of Dr. Alexander Wolcott, b. January 13, 1763, and died October 12, 1817.

OLIVER WOLCOTT, seventh son and fourteenth child of Roger Wolcott and Sarah (Drake) Wolcott, was born in Windsor, November 26, 1726. He was graduated from Yale College, A. B., 1747. Upon leaving the college he enlisted in the New York colonial army, preparing for operating against the French and Indians on the northern frontier, and he raised a company and

held the commission of captain from the governor of New York in that service. He remained in the service up to the time of the peace of Aix la Chapelle. He then studied medicine and was appointed the first sheriff of Litchfield county, in 1751, serving in that office for twenty years.

He was a representative from Litchfield in the general assembly of the colony, 1764-70; an assistant to the governor, 1771-86; judge of the probate court, 1772-95; colonel of the militia in 1774, and chief judge of the court of common pleas of Litchfield county, 1774-86. He was a delegate to the continental congress in 1775 and served for two terms, 1775-1778, and was a signer of the Declaration of Independence as passed July 4, 1776. He was a brigadier-general in the American revolution, being promoted to that rank in August, 1776. At the beginning of the war the continental congress assembled in New York, of which city he was a resident, and when the large leaden statue of George III., on Bowling Green, was pulled down by the revolutionists to be melted into bullets, it was carried to his house and the bullets were moulded in the huge fireplace in the kitchen.

He was again a member of congress from Connecticut, 1780-83; lieutenant-governor of Connecticut, 1786-96, and on the death of Governor Hutchinson, in 1796, he was sworn in as governor. In 1797 he was elected governor and held the office at the time of his death. He received the honorary degree of M. A. from Yale College in 1765 and that of LL.D. in 1792.

Died in Litchfield, Connecticut, in December, 1797.

Married, January 21, 1755, Lorraine [or Laura] Collins, daughter of Captain Daniel Collins and Lois (Cornwall) Collins (born 1720, died 1787), of Guilford, Connecticut.

Issue:

1. Oliver Wolcott, b. August 31, 1757; d. September 13, 1757.
2. *Oliver Wolcott*, of whom below.
3. Laura Wolcott, b. December 15, 1761; m., October 6, 1785, William Mosley; Yale 1777.
4. Mariann Wolcott, b. February 16, 1765; m., in October, 1786, Chauncey Goodrich (Yale, 1776).
5. *Frederick Wolcott*, of whom below.

V

SAMUEL WOLCOTT, eldest son and second child of Gideon and Naomi (Olmsted) Wolcott, was born in the homestead at South Windsor, Connecticut, April 4, 1751. He continued to live on the old homestead and cultivated the old farm which had been owned and occupied by his father and grandfather. He served as commissary in the revolution. One who saw him in his declining years has left this description of him: "At the time of my earliest recollections of him he was somewhat crippled by seven attacks of the gout, which heavily afflicted the latter years of his life. When young, he must have been a person of great manly beauty. His height was near six feet, his frame robust and well covered with muscle, his whole physical structure adapted alike to strength and activity. His hair was very dark, but not quite enough to be called black, his eyes dark hazel and of uncommon brightness, his features regular, and his whole countenance indicative of a strong and active mind."

Died June 7, 1813. The inventory of his estate amounted to thirty thousand, six hundred sixty-nine dollars and nine cents.

Married, December 29, 1774, Jerusha, daughter of General Erastus and Jernsha (Wolcott) and granddaughter of Governor Roger Wolcott. She was born November 29, 1755, and died March 19, 1844.

Issue:

1. Jerusha Wolcott, b. October 8, 1775; m., November 30, 1794, Epaphrus Bissell, of East Windsor Hill.
2. Naomi Wolcott, b. October 10, 1777; m., October 1, 1804, James Wadsworth of Geneseo, New York (Yale A. B. 1787). He was born April 20, 1768, and died June 7, 1844. Issue: i. James Samuel Wadsworth, b. October 30, 1807, d. in battle, May 6, 1864, in command of a division at the Wilderness.
3. Samuel Wolcott, b. December 12, 1781, d. February 17, 1795.
4. *Elihu Wolcott*, of whom below.
5. Sophia Wolcott, b. March 29, 1786; m., October 19, 1807, Martin Ellsworth, of Windsor (Yale A. B. 1801), son of Chief-Justice Ellsworth. Issue: i. Oliver Ellsworth, was graduated from Yale in the class of 1830.

6. Ursula Wolcott, b. November 17, 1788; m., May 10, 1815, Reverend Newton Skinner (Yale A. B., 1804). Issue: i. Samuel Wolcott Skinner, was graduated at Yale, A. B., 1842, M. D., 1846.

7. Elizabeth Wolcott, b. September 23, 1791; m., November 23, 1820, Erastus Ellsworth (1789-1878). Issue: i. Erastus Wolcott Ellsworth (Amherst A. B., 1844); he is the author of a volume of poems. ii. Mary Lyman Ellsworth, m. Dr. William Wood, author of "Birds of Connecticut."

8. Horace Wolcott, b. March 25, 1794, was captain of mounted troop in his native town and removed first to Michigan and then to Illinois, where he d. in 1838.

OLIVER WOLCOTT, second son and child of Oliver Wolcott, the Signer, and Lorraine [or Laura] (Collins) Wolcott, was born in Litchfield, January 11, 1760. He was graduated at Yale College, A. B., 1778; A. M., 1781. He served in the American revolution under the command of his father, General Oliver Wolcott, during part of the war, and was a member of the committee of the pay-table of Connecticut troops, 1782-88. In 1784 he was appointed a commissioner to assist Oliver Ellsworth in adjusting and settling the claims of Connecticut against the United States.

He was a comptroller of public accounts of the United States, 1788-89; auditor of the United States treasury, 1789-91; secretary of the United States treasury as successor to Alexander Hamilton, 1795-1800; and in 1801 he was appointed judge of the second United States circuit court. At the close of his term of office, in 1802, he engaged in mercantile business in New York, continuing up to 1812, when he joined his brother, Frederick Wolcott, in building extensive factories at Wolcottville, Connecticut. He was elected governor of Connecticut in 1818, which office he held by successive elections up to 1827, when he refused further service.

He was the author of several political pamphlets, and in 1846 his papers were edited by Gibbs under the title, "Memoirs of the Administrations of Washington and John Adams." He received the honorary degree of LL.D. from Brown University



Oliver Wolcott Jr.

1760-1833

in 1799; from the College of New Jersey the same year, and from Yale College in 1819. His will was dated July 14, 1832, and was probated in 1833. He was buried in Litchfield cemetery.

Died in New York city, June 1, 1833.

Married, June 1, 1785, Elizabeth Stoughton, only daughter of Captain John Stoughton, of the British provincial army, and Ruth (Belden) Stoughton. She was born October 27, 1767, died September 25, 1805, a descendant of Thomas Stoughton, an original settler of Windsor.

Issue:

1. John Stoughton Wolcott, b. August 28, 1787; d. February 4, 1789.

2. Oliver Wolcott, b. May 27, 1790; d. July 17, 1791.

3. Laura Wolcott, b. April 10, 1794; buried from All Souls Church, New York city, December 13, 1870; m., December 27, 1810, Col. George Gibbs, of Newport, Rhode Island, and of Sunswick, New York.

4. Elizabeth Stoughton Wolcott, b. October 9, 1795; m., July 2, 1813, William Gracie, of New York city.

5. Oliver Stoughton Wolcott, b. January 18, 1800; d. May 23, 1832; m., November 9, 1820, Jane Lowe Conrad, daughter of John Conrad, of Chester county, Pennsylvania. Issue: i. Oliver Wolcott, b. September 14, 1823; d. May 22, 1856, the last male descendant of Oliver Wolcott, secretary of the United States Treasury, in the line of his sons.

6. John Stoughton Wolcott, M. D., b. December 4, 1802; d. November 22, 1843; never married. Named in his father's will as residing with him, "the protector of his declining years."

7. Henry Wolcott, b. September 4, 1805; d. September 25, 1805.

FREDERICK WOLCOTT, third son and fifth child of Oliver Wolcott, the Signer and Lorraine [or Laura] (Collins) Wolcott, was born in Litchfield, Connecticut, November 2, 1767. He was graduated at Yale, A. B., 1786, with the honors of his class. He was an accomplished scholar and kept up his studies of the

classics and ancient literature. In his youth he met President Washington and other leaders of the American revolution and later gave delightful reminiscences of his visits to the national capital.

He was a judge of the probate court of Connecticut for more than thirty years, twice refused the nomination for governor of the state, and aided in electing to that office his brother, Oliver Wolcott, at the successive elections, 1818 to 1826. His duties as judge and state senator enabled him to live in Litchfield during his entire life. Inadequate health was the chief cause of his refusing office which would call him away from home.

Died in Litchfield, May 28, 1837.

Married, 1st, October 12, 1800, Betsy Huntington, daughter of Joshua and Hannah Huntington, of Norwich, Connecticut. She was born November 8, 1774, died April 12, 1812.

Married, 2d, July 21, 1815, Sally Worthington (Goodrich) Cooke, born August 7, 1785; died September 14, 1842; daughter of Reverend Samuel Goodrich, of Berlin, Connecticut, granddaughter of Reverend Elizur and Elizabeth (Ely) Goodrich, and widow of Amos Cooke, of Danbury, Connecticut. She was the mother of Elizabeth Cooke, who married Richard Wayne Stites, of Savannah, Georgia, and Morristown, New Jersey, and of Joseph Platt Cooke, M. D. (Yale 1827), who died at sea in 1835, unmarried, and was buried with the Wolcott family in Litchfield.

Issue (by first wife):

1. Mary Ann Goodrich Wolcott, b. August 9, 1801; m., May 22, 1827, Asa Whitehead, of Newark, New Jersey.
2. Hannah Huntington Wolcott, b. January 14, 1803; m., April 21, 1834, Reverend Frederick Freeman, of Sandwich, Massachusetts.
3. *Joshua Huntington Wolcott*, of whom below.
4. Elizabeth Wolcott, b. March 6, 1806; d. October 15, 1875; m., May 22, 1827, John P. Jackson, of Newark, New Jersey.
5. Frederick Henry Wolcott, b. August 19, 1808; m., first, June 12, 1838, Abby Woolsey Howland, daughter of Gardiner G. Howland, of New York. She died January 14, 1851. M., sec-

ond, January 18, 1855, Sarah Elizabeth Chase Merchant, daughter of General Charles S. Merchant, United States Army. Issue (by first wife): i. Frederick Henry Wolcott, b. October 30, 1845. ii. Gardiner Howland Wolcott, b. August 25, 1848, m. Oliver Huntington Wolcott, b. in 1850; d. in 1851. Issue (by second wife): iv. Charles Merchant Wolcott b. in 1855; d. in 1858.

6. Laura Maria Wolcott, born August 14, 1811; m., March 3, 1831, Robert G. Rankin, of New York and Newburgh, New York.

Issue (by second wife):

7. Charles Moseley Wolcott, b. November 20, 1816; m., first, November 1, 1843, Mary E. Goodrich, daughter of Samuel G. Goodrich. She died November 13, 1845. M., second, November 26, 1849, Catherine A. Rankin. He lived at "Roseneath," Fishkill Landing, New York.

8. Chauncey Goodrich Wolcott, b. March 15, 1819; d. October 28, 1820.

9. Henry Griswold Wolcott, b. November 4, 1820; d. in New York city, May 8, 1852; never married.

10. Mary Frances Wolcott, b. July 9, 1823; m., February 4, 1845, Theodore Frothingham, of Boston. Issue: i. Theodore Frothingham, Harvard, 1870.

VI

ELIHU WOLCOTT, second son and fourth child of Samuel and Jerusha (Wolcott) Wolcott, was born in the old homestead at South Windsor, Connecticut, February 12, 1784. His farm adjoined that of his father on the south. He represented his town in the Connecticut legislature, and in 1830 he removed with his family to Jacksonville, Illinois, where a site had just been selected for the future Illinois College. He engaged in merchandising and later in life devoted his time to the care of his real estate, which had rapidly increased in value. At his death his property was inventoried at one hundred thousand dollars.

Married, 1st, November 27, 1806, Rachel McClintock, youngest daughter of Dr. David McClure (Yale, A. B., 1769, A. M., 1773; Dartmouth, D. D., 1803). She died in 1820.

Married, 2d, May 13, 1823, Juliana, daughter of Erastus Wolcott of South Windsor, who died November 30, 1832, at Jacksonville, Illinois.

Married, 3d, September 7, 1835, Sarah C., daughter of Deacon John Crocker, of Derry, New Hampshire. She was born in Derry, New Hampshire, August 17, 1797, and died in Jacksonville, Illinois, August 4, 1844.

Issue (by first wife):

1. Elizabeth Ann Wolcott, b. December 26, 1807; m., November 28, 1832, Colonel Carlton H. Perry, of Keokuk, Iowa, an officer in the civil war.

2. Hannah McClure Wolcott, b. in East Windsor, Connecticut, June 7, 1811; d. in Jacksonville, Illinois, August 31, 1858; m., November 28, 1832, Reverend William Kirby (Yale A. B., 1827) who was born in Middletown, Connecticut, July 2, 1805, and d. in Winchester, Illinois, December 20, 1851. Issue seven children.

3. *Samuel Wolcott*, of whom below.

4. Arthur Wolcott, b. April 10, 1815; m., first, July 12, 1849, Sarah Ann, daughter of General William Morrison, of Lock Haven, Pennsylvania; m., second, Clara, daughter of General William G. Belknap, U. S. A., of Newburgh, New York. Issue (by second wife): Bertha Belknap Wolcott, b. April 10, 1865, in Keokuk, Iowa.

5. Elizier Wolcott, b. August 7, 1817, d. in 1901; Yale A. B., 1839; m., July 15, 1846, Martha Lyman, daughter of Daniel Dwight of Amherst, Massachusetts. He engaged in railroad service as civil engineer until failing health obliged him to retire and he lived in Jacksonville, Illinois, where he kept up his literary pursuits and was superintendent of the erection of water works for the town. Issue: i. Leofwyn Wolcott, (1847-1858). ii. Edith Dwight Wolcott, b. in 1850. iii. Elihu Wolcott, (1859-1860). iv. May Wolcott, b. May 14, 1863.

6. Frances Jane Wolcott, b. March 30, 1819; m., January 2, 1849, Major Barbour Lewis (Illinois College A. B., 1845); was a soldier in the Civil War, lawyer in Memphis, Tennessee,

and representative for the Memphis district in the United States congress.

Issue (by second wife) :

7. Helen Maria Wolcott, b. July 9, 1824, d. May 13, 1831.
8. Ella Louisa Wolcott, b. January 4, 1828.
9. Julia Ann Wolcott, b. June 20, 1829; m., November 19, 1846, William C. Carter, (Illinois College A. B., 1845).

Issue (by third wife) :

10. Sarah Elizabeth Woleott, b. May 12, 1837, d. September 6, 1838.

11. Richard Wolcott, b. January 10, 1840, (Illinois College A. B., 1859). He was captain in the civil war; attorney at law in Springfield, Illinois. M., July 11, 1865, Jane Van Vechten, daughter of James D. B. Salter of Springfield. Issue: i. Cordelia Leland Wolcott, b. May 9, 1866. ii. Lucy Salter Wolcott, b. November 13, 1867. iii. Ella Richard Wolcott, b. July 5, 1873, d. February 3, 1875.

JOSHUA HUNTINGTON WOLCOTT, eldest son and third child of Frederick Wolcott and Betsey (Huntington) Wolcott, was born August 29, 1804. He was a partner in A. and A. Lawrence and Company, of Boston, and treasurer of the New England Sanitary Commission during the civil war.

Died January 4, 1891.

Married, 1st, Cornelia Frothingham, daughter of Samuel Frothingham, of Boston.

Married, 2d, November 12, 1851, Hannah Frothingham, sister of his first wife.

Issue (all by first wife) :

1. Huntington Frothingham Woleott, b. February 4, 1846; d. June 10, 1865.
2. *Roger Wolcott*, of whom below.

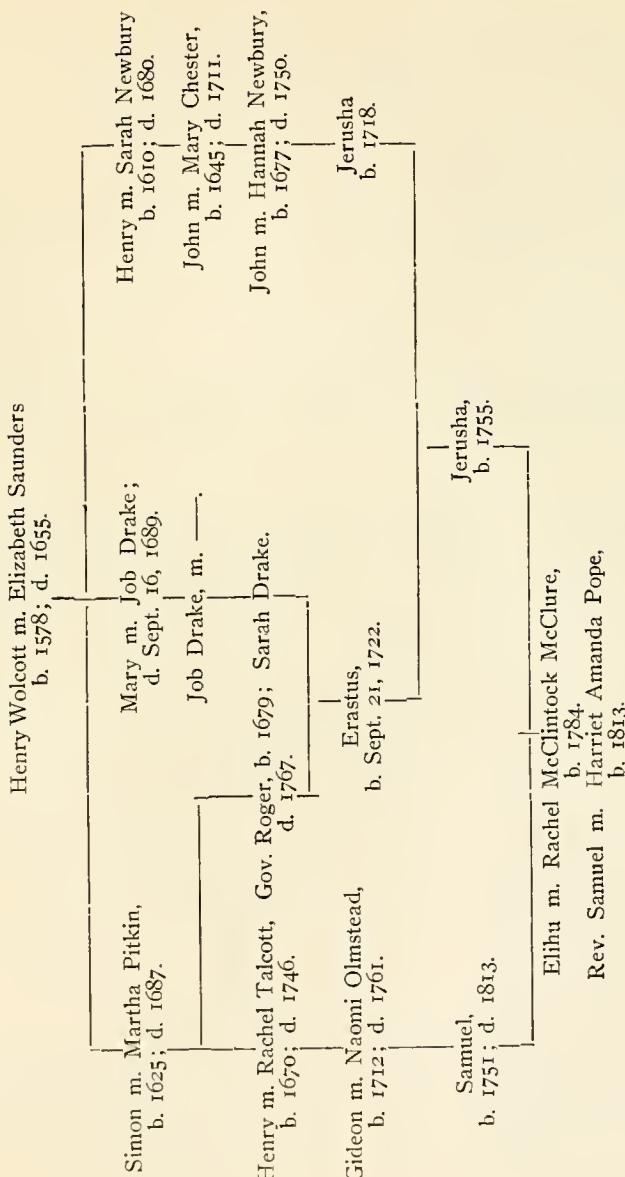
VII

SAMUEL WOLCOTT, eldest son and third child of Elihu and Rachel McClintock (McClure) Wolcott, was born in South Windsor, Connecticut, July 2, 1813. He was prepared for col-

lege at East Windsor Hill Academy, then conducted by William Strong, subsequently associate justice of the United States supreme court. He matriculated at Yale in 1829 with the class of 1833 and was commencement orator at his graduation, the subject of his oration being, "The Proper Direction of American Enterprise and Talent." He was graduated A. B., in 1833, A. M., in 1836, and pursued a course in theology at Andover, graduating B. D. in 1837, being ordained to the Congregational ministry in Boston, November 13, 1839. Mr. Wolcott was twice married, first, on September 5, 1839, to Catherine Elizabeth Wood, daughter of Ezra Wood, of Westminster, Massachusetts. Immediately after his ordination, he went with his wife as missionary to Beirut, Syria, where his wife died on October 26, 1841, and Mr. Wolcott returned soon after, to Boston. He married, second, November 1, 1843, Harriet Amanda Pope, daughter of Jonathan A. Pope, of Millbury, Massachusetts.

Mr. Wolcott served as pastor successively in Longmeadow, and Belchertown, Massachusetts; in Providence, Rhode Island; in Chicago, and in Cleveland, Ohio. In 1863, he received the honorary degree of S. T. D. from Marietta College. After Dr. Wolcott's retirement from active pastoral work, he remained in Cleveland for ten years as secretary of the Ohio Home Missionary Society. At this time also he completed his work as writer of the "Wolcott Memorial," a work to which he had at two different periods, in his younger years, given much time. This sumptuous volume, prepared by Dr. Wolcott, was published at great expense by the three brothers, Huntington, Frederick, and Charles Wolcott, of the Litchfield family, and was privately distributed, the edition having been limited to a few hundred copies. In 1884, Dr. Wolcott returned to New England, and lived at Longmeadow, Massachusetts, where he died February 24, 1886.

His forbears having in three generations married Wolcott cousins, he and his brothers and sisters, and their descendants have complicated lines of descent from Henry Wolcott, the emigrant ancestor of the family, best shown by the following diagram:



Issue (all by second wife) :

1. *Samuel Adams Wolcott*, of whom below.
2. *Henry Roger Wolcott*, of whom below.
3. *Edward Oliver Wolcott*, of whom below.

4. Harriet Agnes Wolcott, b. March 15, 1850; m., April 29, 1879, Frederick O. Vaille, Harvard, A. B., class of 1874; lives in Denver, Colorado. Issue: i. Harriet Wolcott Vaille. ii. Edith Wolcott Vaile, m. Otis Weekes, and has three children. iii. Agnes Wolcott Vaille.

5. *William Edgar Wolcott*, of whom below.

6. Katherine Ellen Wolcott, b. August 25, 1854; m., November 25, 1880, Charles Hansen Toll, Hamilton, A. B., 1872; resided in Denver, where he was attorney-general of the State in 1880. Issue: i. Charles Hansen Toll, m. Mayes Martin, granddaughter of United States Circuit Judge Henry C. Caldwell. Has one daughter. ii. Roger Wolcott Toll, m. Marguerite Cass, of Denver. iii. Henry Wolcott Toll. iv. Oliver Wolcott Toll.

7. Mary Alice Wolcott, b. July 24, 1856; d. February 3, 1858.

8. Anna Louise Wolcott, b. May 25, 1858; attended Wellesley College; Principal Wolfe Hall, Denver, 1892-1898. Founded, with the financial aid of her brother, Henry, "The Wolcott School for Girls," in Denver. Principal of the same 1898 to 1913. Regent of the University of Colorado from 1910. Member of the Board of Managers of the School of American Archaeology. Third Vice-president, Western Chapter of National American Red Cross Society. M., January 4, 1913, Joel Frederick Vaile, A. B., Oberlin College, law partner of her brother, Senator Edward O. Wolcott; delegate 1880 from Indiana to Republican National Convention. Resides in Denver.

9. Clara Gertrude Wolcott, b. December 17, 1859, A. B., from Smith College, 1882.

10. *Herbert Walter Wolcott*, of whom below.

11. Charlotte Augusta Wolcott, b. October 20, 1863, A. B., Smith College, 1887. M., January, 1904, Captain Charles Francis Bates, 25th Infantry, U. S. A., d. April 16, 1912. Issue: Roger Wolcott Bates, b. December 28, 1904.

ROGER WOLCOTT, second son of Joshua Huntington Wolcott and Cornelia (Frothingham) Wolcott, was born in Boston, Massachusetts, July 13, 1847. He was prepared for college in private schools in Boston and was graduated at Harvard College,

A. B., 1870, LL.B., 1874, serving as class orator at the commencement exercises in 1870. He was tutor in the college, 1871-2. In 1874 he was admitted to the Suffolk bar and was a practising lawyer in Boston for only a short time, as the care of his investments and those of his mother engaged his attention. He early became interested in politics and was elected a member of the common council of the city of Boston by the Republican party in 1876. He held that office in 1877, 1878 and 1879 and again in 1887 and 1889. In 1882 he was elected a representative to the general court of Massachusetts, and served in the lower branch of the legislature, 1882-85. In 1884 he worked and voted against the election of the Blaine and Logan Republican ticket. He was a delegate to the Massachusetts state convention of the Republican party in 1885. He instituted the reform movement within the Republican party in Massachusetts known as the "Mugwump" movement, and when the Young Men's Republican Club was formed in 1891 as a definite organization as the result of this reform movement, he was elected its first president. As the club expanded, the name was changed to the Republican Club of Massachusetts, and in 1892 his name was placed before the voters of the commonwealth as a reform candidate for lieutenant-governor, the ticket being headed by F. T. Greenhalge for governor. The reform movement split the ticket and William E. Russell, Democrat, was elected governor, and Roger Wolcott, lieutenant-governor. In 1893 the Republican party renominated the ticket of 1892 and elected it, and he thus served as lieutenant-governor in 1892 and 1893. He was renominated and re-elected in 1893, 1894 and 1895 and served as lieutenant-governor 1894, 1895 and 1896. On the death of Governor Greenhalge in 1896, he became acting governor under the law of the commonwealth, and he was elected governor in November, 1896, 1897 and 1898 respectively. He declined renomination in 1899 and also declined to become a member of the Philippine commission or to be United States ambassador to Italy the same year, each honor having been proffered and urged upon him by President McKinley.

He was elected a member of the Boston Citizens Association and the Civil Service Reform Association, a trustee of the

Massachusetts General Hospital and an overseer of Harvard University, 1885-1900. He was a member of the St. Botolph, Somerset, Union, Athletic and New Riding clubs of Boston. He received the honorary degree of LL.D. from Williams College in 1897.

Died in Boston, December 21, 1900.

Married, September 2, 1874, Edith Prescott, daughter of William Hinckley Prescott, granddaughter of William Hinckley Prescott, the historian, and great-granddaughter of Colonel William Prescott, who was in command of the provincial troops at the battle of Bunker Hill in 1775.

Issue:

1. *Roger Wolcott*, of whom below.

VIII

SAMUEL ADAMS WOLCOTT, eldest son of Rev. Samuel and Harriet Amanda (Pope) Wolcott, was born in Longmeadow, Massachusetts, September 3, 1844. He was a member of the class of 1866 at Yale College, but was obliged to leave before the close of his course, because of asthma, with which he suffered all his life. He sought an out-of-door life and located at Laredo, Texas, where he acquired a large tract of land, some twenty-six thousand acres, and became a stock raiser. He served during the Civil War, around the Gulf of Mexico both in the army and navy.

Died, at New London, Connecticut, November 30, 1912. Married, July 27, 1883, Julia E. Neale, of Brooklyn, New York.

Issue:

1. *Roger Henry Wolcott*, of whom below.

HENRY ROGER WOLCOTT, second son of Dr. Samuel and Harriet Amanda (Pope) Wolcott, was born in Longmeadow, Massachusetts, March 15, 1846. He was educated in schools at Providence, Rhode Island, Chicago, Illinois, and Cleveland, Ohio, in which cities his father was located as pastor. He served in various positions in banks in Cleveland for four years, except for a short time in 1864. When eighteen years of age, he enlisted

in a Cleveland regiment for one hundred days' service and was sent to the defense of Washington, District of Columbia. He was transferred, by his own request, to the one hundred and fortieth regiment and served until the regiment was mustered out, in the fall of 1864. He then engaged in business in Springfield, Massachusetts, and later in Chicago, Illinois, removing, in 1869, to Colorado, where he located at Black Hawk and became interested in mining. In 1870 he associated himself with the Boston and Colorado smelting works at Argo, continuing his connection with this company for seventeen years, during which time he became manager.

He took an interest in local politics and in 1878 was elected state senator from Gilpin county and was an active member of the state legislative sessions of 1879 and 1881. During the latter session he was president pro tem of the senate, and, by reason of the death of Lieutenant-Governor Robinson during the absence of Governor Pitkin from the state, was acting governor. In 1888 he was chairman of the Colorado state delegation to the national republican convention at Chicago.

Mr. Wolcott for several years was a director of the Equitable Life Assurance Society of New York. He was president of the Denver, Utah and Pacific railroad, one of the organizers and was for years vice-president of the First National Bank of Denver. He was a benefactor of Colorado College, Colorado Springs, and built the Wolcott Observatory for the use of the college. He was one of the charter members of the Denver Club and served as its president seventeen years while a resident of Colorado. He has, for many years, persistently refused to accept any public office.

He is a member of the following clubs: Union, Union League, University, Bridge, American Yacht, New York Athletic, Automobile Club of America, New York Yacht, Larchmont Yacht, Racquet, Tennis, Whist, of New York and vicinity, and the Metropolitan Club of Washington.

EDWARD OLIVER WOLCOTT, United States Senator, third son of Rev. Dr. Samuel and Harriet Amanda (Pope) Wolcott, was born in Longmeadow, Massachusetts, March 26, 1848.

He received his schooling at the Norwich Academy and at Cleveland was prepared for Yale, which he entered with the class of 1870.

In 1864, at the age of sixteen, responding to the urgent call for volunteers for the temporary defense of Washington, he enlisted in the one hundred and fiftieth regiment, Ohio volunteers. When the necessity for these troops had passed away, he returned to his studies. After passing through his freshman and sophomore years at Yale, he decided to fit himself as rapidly as possible for the practice of law and entered the law office of C. T. and T. H. Russell, in Boston, Massachusetts, at the same time pursuing a course in law at the Harvard University law school, from which he was graduated LL.B. in 1871. He removed to Colorado the same year, to join his brother, Henry Roger Wolcott, who was living at Black Hawk, Gilpin county. There he taught school for a short time, later removing to Georgetown, Clear Creek county, where he opened a law office. While awaiting clients, he contributed entertaining letters to the press of the territory and some of the prominent eastern journals, and for a time edited the "Georgetown Miner." He gained little prominence as a lawyer until 1876, when he was elected to the office of prosecuting attorney for the first judicial district, comprising the counties of Jefferson, Gilpin, Clear Creek and Boulder. Thenceforth his rise at the bar was rapid. Some time before the expiration of his term, he had accomplished the unprecedented feat of clearing the docket of the district of all criminal cases in a manner to compel the admiration of court, lawyers and jurors. Having executed his mission as district attorney to the satisfaction of all, he resigned, and in 1878, being elected state senator, at once became a leading figure. In 1879 he was made attorney of the Denver and Rio Grande Railway Company and removed from Georgetown to Denver, where, in addition to his railway business, he had a large private practice. In 1884 he was elected general counsel of the road. In 1888 he was elected to the United States senate, to succeed Thomas M. Bowen, his term beginning March 4, 1889. In the senate he was conspicuous for his oratory and for his advocacy of the free coinage of silver, doing much to gain for the new measure the

support of the republican party. He held to these views up to the time of the nomination of William J. Bryan for president by the national democratic party in 1896 on a free-silver platform, when he decided to support the fusion ticket in Colorado, which received a plurality of one hundred thirty-two thousand, four hundred and three votes in 1896 and of twenty-nine thousand, six hundred and sixty-one in 1900, by reason of the productive interests centered in the silver mines. Outside of these local interests, Senator Wolcott remained in the ranks of the republican party. In January, 1895, he was re-elected by the tenth general assembly of Colorado, his second term beginning March 4, 1895, and expiring March 3, 1901. Notwithstanding his attitude on the silver question, Senator Wolcott refused to support William J. Bryan as a presidential candidate. Upon the first defeat of Bryan and the national defeat of the free silver party, the new administration, at the suggestion of President McKinley, who, like Wolcott, had been, before the nomination conventions, an advocate of the free coinage of silver, appointed a commission consisting of Charles J. Payne, of Massachusetts, Adlai Stevenson, late vice-president of the United States, and Senator Wolcott, to informally visit the capitals of Great Britain, France and Germany to learn the views of these governments on the subject of securing international agreement on the question of bimetallism. At the close of his second senatorial term, March 3, 1901, Senator Wolcott retired from official life.

In 1896 Mr. Wolcott received the degree of LL.D. from Yale University.

Died suddenly, while abroad, March 1, 1905.

Married, May 14, 1890, Frances (Metcalf) Bass, widow of Lyman K. Bass of Buffalo, New York.

WILLIAM EDGAR WOLCOTT, fourth son of Rev. Samuel and Harriet Amanda (Pope) Wolcott, was born at Belchertown, Massachusetts, on April 26, 1852; Oberlin College, A. B., in 1874, and was graduated from Andover Theological Society in 1881. He was employed on the *Springfield Republican* previous to the death of the elder Samuel Bowles, for whom he felt great

admiration. During his Andover course, he had become very much interested in the millworkers at Lawrence, Massachusetts, and lived among them until 1885, when he accepted a call to the historic first church of Lawrence where he remained until his death, twenty-six years later, a strong factor in the civic as well as the religious life of the city.

Died, at Lawrence, Massachusetts, May 16, 1911.

Married, in 1894, Cora Wadsworth of Lawrence, who only lived for a year after their marriage.

Issue:

1. Samuel Wadsworth Wolcott, b. March 12, 1895.

HERBERT WALTER WOLCOTT, fifth son of Rev. Samuel and Harriet Amanda (Pope) Wolcott, was born in Chicago, Illinois, November 25, 1861; Yale College, A. B., 1884. He studied law in Denver and in the Columbia Law School, New York city. He practiced law in Kansas City and later in Cleveland, Ohio. Mr. Wolcott was president of the Tippecanoe Republican Club during the nomination and election of President McKinley. He was a member of the Ohio State Senate (1898-1900) and was one of the seventy-three Republicans who elected Mark Hanna United States senator over seventy Democrats and bolting Republicans. Later he removed to Kansas City, where he constructed a suburban electric railway to Leavenworth, Kansas; and afterwards resumed the practice of law and returned to Cleveland.

Married, in 1898, Nettie May Gabriel, daughter of William H. Gabriel, of Cleveland, Ohio.

Issue:

1. Mary Gabriel Wolcott, b. April 30, 1902.
2. Harriet Amanda Wolcott, b. July 22, 1905.
3. Edward Oliver Wolcott, b. September 12, 1911, d. June 10, 1912.
4. Henry Roger Wolcott, b. August 4, 1913.

ROGER WOLCOTT, eldest son of Roger and Edith (Prescott) Wolcott, was born in Milton, Massachusetts, July 25, 1877. He was prepared for college in the Boston Latin school and was

graduated at Harvard, A. B., 1899, and at Harvard University law school, LL.B., 1902. His practice began in the law department of the Boston Elevated Railroad Company, where he was engaged from 1902 until 1906, when he established himself in general law practice in Boston, which he has prosecuted with eminent success.

He was a member of the finance committee and chairman of the elective committee of the Republican Club of Massachusetts and is a member of the Boston Bar Association and of the Civil Service Reform Association of Boston. His business responsibilities include membership in the Provident Institution for Savings and the Suffolk Savings Bank, and directorships in the Lowell Machine Shop, the Everett Mills and the York Manufacturing Company.

His hereditary affiliations include membership in the Military Order of the Loyal Legion, Society of the Cincinnati, Society of Colonial Wars, Bunker Hill Monument Association, Old South Society, and Milton Historical Society.

His personal military service was as private in the First Massachusetts Heavy Artillery, United States Volunteers (1898) and as private, corporal, second lieutenant, first lieutenant, captain and regimental adjutant in the Massachusetts Volunteer Militia.

Married, in Boston, June 7, 1904, Claire Morton Prince.

IX

ROGER HENRY WOLCOTT, only child of Samuel Adams Wolcott, was born at San Antonio, Texas, January 12, 1885. He was graduated from Yale University, A. B., in 1905, and received the degree of LL.B. from the Colorado Law School in 1907. He resides in Denver, Colorado.

Married, October 28, 1907, Louise Dugal, daughter of Louis Dugal, of Denver.

Post Bellum Letters From Ohioans

From the Doolittle Correspondence

CONTRIBUTED BY DUANE MOWRY, OF MILWAUKEE, WISCONSIN

THE subjoined letters, which were found in the personal correspondence of the late ex-Senator James R. Doolittle, of Wisconsin, are interesting and valuable as showing, to some extent, the political drift in the North at a time shortly following the civil war. The authors were then residents of Ohio and had a large prominence in the public eye of their state. Mr. Doolittle, too, who was regarded as fit presidential timber, was frequently consulted by public men from every part of the country. These letters amply verify that.

The letters of Mr. Campbell indicate that he had a personal interest in writing to his friend, the senator from Wisconsin, securing the confirmation of his nomination as minister to the then Republic of Mexico. But his letter of April 25, 1866, also discusses the existing and growing public sentiment against President Johnson and his administration as he finds it in his own state of Ohio, on his return from Washington. This sentiment was not exceptional nor was it confined to Ohio. The feeling everywhere existed in the North that the President's pacific policy toward the warring states of the South was wholly unwelcomed and undesired. Mr. Campbell states the real situation none too strongly.

By the time the D. P. Rhodes' letter was written, in June, 1868, public sentiment had eliminated Mr. Johnson as a presidential possibility to succeed himself. And the letter clearly emphasizes that fact. It is true that Mr. Rhodes did not prove to be a wise political prophet as to the nominee. However, if his suggestion of a Western man had been heeded, victory might have

waited upon the efforts of those who opposed a more or less heartless policy with reference to the recently seceded Southern states. As it developed, the ticket headed by Horatio Seymour, of New York, was compelled to give way to that introduced by Gen. Ulysses S. Grant, who was then the idol of the hour.

Scarcely less important, from the viewpoint of political history of the time, is the letter of Edward L. Anderson, which clearly foreshadows the growing discontent of the first administration of President Grant in some quarters. It also shows the high esteem in which Senator Doolittle was held among those who championed a somewhat different policy than that of the party in power at the time, undoubtedly written in 1872.

From a purely political point of view, the letter signed "T. E.," which is, without doubt, that of the Hon. Thomas Ewing, is most important of all those submitted. Of course, the letter discusses the political situation in a free and frank manner and was, evidently, intended to be confidential, as an injunction to burn it would indicate. But that request was not observed, apparently, and there can be no real objection to exposing its contents at this late day, more than forty years after its writing. The real significance of the letter is to be found in the view of the Democratic party entertained by the writer.

All of these letters, however, will be appreciated by those who are students of the subjects and the times to which they relate.

"LANCASTER, O., FEB. 6, 1873.

"MY DEAR SIR:—I have, as yet, sold only half the block, & have not received from the sale enough cash to meet the pressing and overdue encumbrances. I send, however, herewith my note to your order at 90 days with interest for \$500, which may be preferable to you than to wait the completion of the now pending sale for the balance. If you cannot use the note satisfactorily, please return it, & I will remit you the \$500 as soon as the sale is completed.

"I would like to see you to talk over the future of parties, having great confidence in your practical sense & breadth of vision. I shall be sent to our Constitutional Convention which meets on the 1st of May in Columbus. The Democracy are de-

terminated I shall run for Governor, too, & I go to the Convention *partly* to be freer to decline the nomination if need be. No one else is named as a candidate. The difficulty in my mind is that I have come to regard the Democratic *organization* as only the hoops of the Republican barrel, & I don't want to strengthen & tighten the hoops. Don't the Liberal Republicans so regard our organization? *Is* it, or has it been since 1865, of any other use than that bad use? Must *it* not, therefore, be destroyed before the Republican party can fall to pieces, & new parties form on *post bellum* issues? Please send me a copy of Ill's Constitution. Were the debates in the Ill. Convention published? Send me any literature of that Convention you have. *Burn this:* & I will so treat yr. answer.

"T. E."

NOTE.—That part of Mr. Ewing's letter which deals with the political situation will be interesting reading. And it should be borne in mind that Judge Doolittle and Mr. Ewing were warm personal friends and admirers. Mr. E. was especially frank in avowing his great respect for Mr. Doolittle's political judgment and acumen.

D. M.

"WILLARD'S HOTEL, WASHINGTON, D. C., April 16, 1866.

"DEAR SIR.—I have remained here patiently for two months awaiting the action of the Senate on my nomination as Minister to the Republic of Mexico, which the President,¹ in his kindness, saw fit to make without any solicitation, direct or indirect, from me.

"During this time I have fastidiously avoided calling on Senators on this subject or any other; but the situation of my family in Ohio and my private business (being engaged largely in farming) is such as to render it very important to me to have this matter decided.

"As you are a member of the Committee on Foreign Relations, I venture to ask of you as a personal favor that you will attend the Committee meeting to-morrow (Tuesday) morning and put an end to the suspense which has been to me exceedingly unpleasant.

"Very truly yours &c.,

"LEWIS D. CAMPBELL.

^{1.} President Andrew Johnson.

"Hon. J. R. DOOLITTLE,
"U. S. Senate."

"HAMILTON, O., April 25, 1866.

"DEAR SIR.—My continuous presence at Washington for several weeks was rather on the suggestion of the President than from any pleasure I derived. My position was at once delicate and embarrassing. Being hung up in the Senate by a nomination which I had never directly or indirectly solicited (and which, perhaps, was one 'not fit to be made') I could not with my sense of propriety call on Senators to consult about general politics or to discharge courtesies due to them under other circumstances.

"On Sunday last I received information from home of the illness of one of my daughters and that an important business interest amounting to several thousand dollars required my immediate return. Therefore, I took the first train without bidding adieu to the President whom I had promised to remain another week. I arrived here last night weary and tired.

"I find the President has lost ground among the people rapidly of late. Nineteen-twentieths of all the Post Masters, Revenue Collectors, Assessors, &c., in Ohio are bitterly opposing him. They are circulating broad-cast such libellous sheets as the 'New York Independent,' the 'Right Way'-Speeches of Radicals in Congress and such other similar documents as they can get, misrepresenting his policy and slandering him personally. Of what account is it to have Heads of Departments composed of friends—*real* or *pretended*, if their tens of thousands of subalterns all over the land are permitted to remain in official position actively operating as his *real enemies*, and the enemies of the few friends he has in Congress, like yourself and Cowan¹ and Dixon², who have mainfully defended him? I tell you, my dear Sir, that the friends of the President's policy are everywhere becoming disheartened. The Commander in Chief of a great army can never win a battle, if he permits his enemy to seize his batteries, his arms, and his ammunition. Nor can he have a well-organized army if his Corps Commanders are unreliable, or keep

1. Senator from Pennsylvania
2. Senator from Connecticut.

in service subalterns who fight for the enemy. Now, I have talked to the President and written to him on this subject until I have worn it thread bare. If he does not move in the proper direction very soon, his friends among the people will feel like grounding arms.

"I do not expect to go to Washington again unless called there by important necessities. It has become apparently a God-forsaken place, where an honest man, having urgent business, might venture to stay, but where one having no business must expect to 'fall among thieves,' who will steal his money or his character—perhaps both. As I do not profess to have too much of either of these important articles, I shall not soon again venture to that seat of sin and iniquity.

"In reference to my case, I may say to you without any impropriety, that our two Senators were the only members of your body that I felt at liberty to converse with freely. Both have uniformly and voluntarily professed the most earnest solicitude to have me confirmed. Since my return home my friends have informed me that they have sent to Senator Wade³ important papers on the points of personal character and merit. And I may here add that I have lived in this and the adjoining county all my life—now 55 years—in this county 35 years. If these papers have not been read to the Committee, I hope you will request, if necessary, that they be read. If I am to be rejected because I favor the President's policy, let it be so stated. If because the Monroe Doctrine is to be ignored by the Senate, let it be so stated. If for personal objections, let it be so stated. It would seem hard to have me knocked in the head or kept hanging in suspense, simply because the Senate may not wish to offend the French Empire or Maximilian. I am not so anxious to hold any office as to barter away my fixed political principles. The confirmation is more desirable to me as a matter of personal pride than for any emoluments it may bring, and I shall ever feel grateful for any act of kindness you may be able consistently with your duties as a senator, to confer.

"I shall be glad to hear from you on the 'political situation' generally, if you have time to write, or to have you communicate

3. Senator B. F. Wade, of Ohio.

any information or advice compatible with your duty touching my personal matter.

"As I did call on you in person as I designed doing before my return home, I take the liberty of enclosing my *carte de visite*.

"In haste.

"Very truly yours &c.,

"LEWIS D. CAMPBELL.

"HON. J. R. DOOLITTLE,

"U. S. Senator,

"Washington, D. C."

"CLEVELAND, JUNE 24, '68.

"My D'R SIR:—Yours I found upon my return home yesterday, or should have answered ere this. I shall go to N. Y. tomorrow and will then look the ground over and see what I can do. My impression is, however, that Pendleton¹ will be nominated. His financial policy takes with the People in the West, and I have no doubt that two-sevenths of the Republicans in Ohio, Indiana & Illinois would vote for him.

"We must have a Western man, and should Pendleton not prove to be that man, I am free to say I would like to see yourself the Compromise Candidate.

"But no Hancock² or Chase³ for me. We are all well. With kind regards for your family, I am,

"Yours Truly,

D. P. RHODES.

"Hon. J. R. Doolittle,

"Washington, D. C."

"70 PIKE ST., CINCINNATI, O.

"HON. J. R. DOOLITTLE—

"MY DEAR SIR:—In answer to your letter of the 24th, I have to report that Mr. Groesbeck's¹ friends say that he will have nothing to do with the New York meeting whatever. And that he

1. Hon. George H. Pendleton of Ohio.

2. Hon. Winfield S. Hancock.

3. Hon. Salmon P. Chase.

1. Hon. W. S. Groesbeck of Ohio.

NOTE.—This letter is without date. It must have been written, however, in 1872. It refers to the presidential campaign of that year. D. M.

hopes that they will send him no communication that requires an answer. Mr. Groesbeck will stand by the nominee of the Baltimore Convention—and I think his friends have hopes that he will be the man.

“I understand a letter from Groesbeck will be read at the Cleveland Convention to-morrow—if so I will send you a copy.

“Father sends his regards to you, and says that he regrets that he was not at home to entertain you.

“We shall all be glad to welcome you again.

“My wife sends her regards.

“I am sincerely your friend,

“EDWARD L. ANDERSON.

“P. S.—Thanks for the copy of your correspondence with Oberly. In that, as in everything you have said and written on the political questions of the hour, I find sound judgment and fairness. I hope that the country will have the benefit of your knowledge in the *coming* administration.”



J. FENIMORE COOPER

Enoch Crosby, the Continental Soldier, the Original of Cooper's Harvey Birch, the Patriot Spy

BY J. C. PUMPELLY, A. M., LL.B.

HISTORIAN EMPIRE STATE SOCIETY, S. A. R.

IN some districts in America during the Revolution many of the colonists, as in Westchester county, took part with the crown, and this influence united with those Americans who refused to give up their allegiance for pecuniary and other reasons, gave quite a preponderance to the royal cause.

Congress appointed a special and secret committee in Westchester and Dutchess counties to prevent the raising of companies of Tories to go to New York and enlist with the British.

This part of Westchester called the "Neutral Ground" was territory of peculiar difficulty and danger and subject at all times to reckless and cruel raids by the "cow boys" the riff raff of both armies. This is well portrayed in the first part of "the Spy" bringing in Washington himself under the name of Harper as a traveler stopping with Mr. Wharton, an Englishman and owner of the "Locusts" where also was the latter's son, Harry Wharton, a British officer in disguise and Captains Lawton and Dunardin of the Continental Line and Harvey Birch, peddler and shoemaker by trade, but in reality the "Spy" and the real hero of the story.

Those who have seen the colored moving pictures of this remarkable story will recognize the truthfulness of every crucial scene in the life of the spy, and furthermore if one will read Miss Phillips' "James Fennimore Cooper" and "Memoirs of Colonel Henry Ludington" he will discover that Enoch Crosby or Harvey Birch, peddler and spy, was a real bona fide charac-

ter, and as Cooper says "was poor, ignorant so far as the usual instruction was concerned, but cool, shrewd and fearless by nature." And indeed he was not only all this, but was possessed of physical strength, alertness and ability for invention and strategy that were remarkable.

As the tories in this "Nentral Ground" which extended from the Sound to the Hudson and from Harlem to Peekskill, were the most virulent and implacable enemies the friends of liberty had to contend with, it was a signal interposition of Divine Providence that this man Harvey Birch shonld have appeared in the nick of time and have proved himself such a successful agent in counteracting the machinations of these insidious enemies.

At this time (1775-76) in the four counties of Dutchess, Westchester, Orange and Ulster there were only three thousand one hundred armed and trustworthy militia, while there were ten thousand three hundred disaffected Tories and two thonsand three hundred slaves to be held in order. John Jay, afterwards Governor, was one of this Committee of Safety, and William Dner and Jay and Ludington were leaders in the local committee in Fredericksburg Precinct. Every inhabitant was obliged to align himself either with the Patriots or the Loyalists, and every man between the ages of sixteen and fifty had to furnish himself with a good musket or firelock, bayonet, sword or tomahawk, a steel ramrod, worm, priming, wire and brush fitted thereto, a Cartouch Box to contain twenty-three rounds of cartridges, twelve flints, a knapsack and one pound of powder and three pounds of bullets, and to fail in this was to incur a certain stated fine.

And now a word about Enoch Crosby's family and bringing up. Crosby, in 1753, when but three years of age, was brought by his father to a farm the latter owned in the township of Southeast, Dutchess County, New York. He was blest with parents whose tenderness was only equalled by the rectitude of their lives, and the natural scenery about the home being romantic and picturesque no doubt contributed to tinge his infantile mind with that east of romance and adventnre which so much influenced the actions of his riper years. Ives Hill, a high and romantic eminence in the town, was the theatre of many of his ex-



Title Page of the First Edition of "The Spy"



George Grey

ploits. He was endowed by nature with many physical advantages and generally bore away the palm in every athletic exercise.

The Crosby family were staunch Whigs and so was a majority of their fellow townsmen. The father suddenly found himself reduced from a state of comfort and comparative affluence to poverty and distress and Enoch, the boy, had to leave home and seek his fortune elsewhere. "At the age of sixteen," he says, "I was compelled to leave home and seek the protection of strangers and with only a change of clothes and a few shillings in my pocket I bade a long adieu to the friends I best loved, and the scenes of my happiest days. My parents gave me their blessing, much good advice and a small Bible, I clasped their hands but dared not trust my voice to say farewell as I left my poor mother in an agony of tears."

He became an apprentice to a worthy man in Kent, Putnam County, who taught him the "art and mystery of cordwainer." He faithfully fulfilled his term of service which terminated January 4, 1771, when he was twenty-one years of age. He then joined a trainband and became an active and efficient member. His first service in the army was a private in Captain Benedict's company, Colonel Waterbury's Regiment, which reported to the Provincial Congress of Massachusetts then in session at Watertown. His company was ordered to New York where they went and encamped on the spot afterwards called Vauxhall Garden. They joined Montgomery's force at Albany and on August 21st arrived at Ticonderoga.

"He was a noble fellow that" Montgomery writes, "every soldier in the army loved him like a brother."

Referring to the attack on St. Johns, Crosby says, "I was one of the number that marched into the fort to the tune of Yankee Doodle and took charge of the prisoners," and he was at the taking of Montreal also. He then left the army and returned to the trade of shoemaking at Danbury where he remained until January, 1776, when the death of Montgomery, his beloved, even adored, general so affected Crosby that he sought a change of scene and went off on a visit to his friends in Kent. But in 1776 he was again on his way to the headquarters of the army to again

enter the service. He was then twenty-seven years of age, nearly six feet tall and very muscular. Cooper says: "His eyes were gray, sunken, restless and for the flitting moments that they dwelt on the countenance of those with whom he conversed seemed to read the very soul." When these lines were written by Cooper he was at the Angevine farm only thirty miles from where, at Carmel, Putnam County, Crosby was passing his quiet life. The Spy and the Author never had a meeting. The body of dragoons introduced in the fifth chapter of the "Spy" are apparently Townsends Rangers and rough "Captain Lawton" is none other than Captain Townsend.

Crosby's first service as a spy and with the Rangers as per the orders of the Committee of Safety, then sitting at White Plains, of which Hon. John was Chairman, was started by these words of the Chairman: "There is a sufficient number of brave fellows to repulse our open and avowed enemy, but he who succeeds in bringing to justice the wretches who in midnight cabals are plotting our destruction, deserves infinitely more of his country than he who fights his battles. Are you willing to engage in such service?"

"I am willing," answered Crosby "to encounter any danger and make any sacrifice (my honor only excepted) in the service of my country."

And he more than fulfilled his promise as he was as often arrested by the Continentals as a British spy, as by the British as a spy from his own American forces.

"We will furnish you with a pass" said the Chairman, "for your protection, but it must never be exhibited save with last extremity. Should you be arrested as an emissary of the enemy you shall be secretly furnished with the means of escape, but the secret of your real character must go no farther. Your dearest friend must not be intrusted with it."

The Spy then laid aside his muskets and instead of a knapsack he furnished himself with a large peddler's pack containing a complete set of shoemaker's tools, and then set forth with the ostensible object of searching for employment.

Through his intimacy with the tories who hailed him as a kindred spirit, he obtained information of the movements of the

enemy below and privately transmitted the same to his employers who knew him by the names of John Smith and Jacob Brown.

His first service as a volunteer spy occurred as follows when on his way to join Colonel Swartwout's regiment in Westchester county, he fell in with a tory who asked him to join a company of tories and go to New York to serve in the British army. This he pretended he would do and so started in with that role of secret agent and spy in which he thereafter did such worthy service as to receive special though secret commendation from Washington.

Of course *Birch* immediately reported what he had done to the American Committee of Safety and soon after this whole company of tories, including the spy himself, were captured and in charge of Captain Townsend's Company of Rangers.

So well did he carry out this, his first service for the cause of his country, that he was under orders from Washington transferred to the secret service, and the very next night he eluded his American guards and by hiding in an adjacent corn field he escaped to his Tory acquaintance, Bunker, through whom he gained further valuable information, which he gave to one of the Committee of Safety, and thus, the following day, he with another company of Tories was taken prisoner and locked up in the jail at White Plains. But soon he was secretly brought before the Committee for Detecting Conspiracies and his work approved, and having been bailed out by Jonathan Hopkins he was given a secret letter or pass and so set out upon his work with renewed confidence and hope.

Harvey's next move was to hire out to John Russell across the river, a strong loyalist neighborhood, and there he soon became intimate with a certain Captain Robinson who was forming a Tory Company, and with him he lodged for a week in a cave on the mountain side. When the company was about to start *Birch* recommended that each man should the night before starting sleep when he chose, and each be by himself, for if they should be discovered that night together all would be taken which would not so occur if they were separated, and they did as he advised. Then he went secretly to a Mr. Pardy, called by the Tories a "wicked rebel," and had him go and report to the Committee of

Safety where the Tories would stop the first night. This Pardy did, and the result was that when in the course of the next night the thirty Tories arrived at Bush Carricks and went into a barn to lodge, the place was surrounded by a company of Rangers under Captain Melanethon Smith and all were taken prisoners, including "the Spy," and were confined with one hundred and thirty other prisoners in the stone church in Fishkill.

The Committee then decided it was unsafe for *Birch* to remain with the prisoners as they might suspect him, so he went to the house of a Dutchman's farm about five miles from Fishkill, and there busied himself in making shoes, having duly kept the Committee informed of his whereabouts.

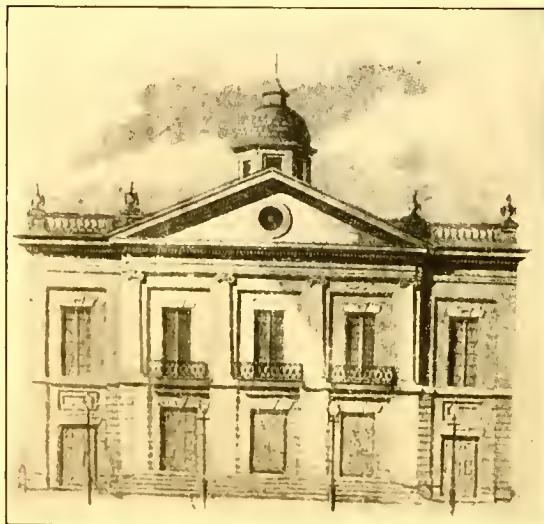
Soon after he had the opportunity to spy out another company of Tories being raised by a Captain Shelton and Lieutenant Chase. They were to meet the last of February three miles from a house occupied by Colonel Morehouse. All this *Birch* told the Colonel and the Committee as well as his particular friend, Colonel Ludington, and after the Tories had been at their meeting place two hours they were warned of the uniting of the Americans at Morehouse's, and started to escape, but all too late. They were surrounded and all made prisoners, and after being tied together two by two were taken off to jail.

It was the writer's good fortune to have at one time been engaged by his friend and fellow member in the Union League Club, Mr. Henry Ludington, to prepare and publish a memorial volume of his ancestor, Henry Ludington of the Revolution and serving in Dutchess County, and among the old papers, which Dr. Willis Fletcher Johnson included in the admirable sketch he prepared for this book, were letters and other data showing that Colonel Ludington was a staunch and faithful friend of the "Spy" who was frequently at the Colonel's house, and often lay hidden there while Tories were searching for him, and the Colonel's two daughters, Sibyl and Rebecca, were privy to the spy's doings, and having a code of signals they frequently admitted him in secrecy to the house and then fed and lodged him.

The story of "The Spy" was Cooper's first literary venture and was not signed as his own, but nevertheless it was a success,



Cooper's Angevine Farm Home



Lafayette Theatre

and with this his literary career began. The book was written at his new home called "*Angevine Farm House*," four miles from Mamaroneck, the property having come to his wife from her father, John Peter de Lancey, whose house was called "Heathcote Hill." And it was there Cooper, then a handsome young naval officer, wooed and won Susan de Lancey, the daughter, for his wife. This lady's brother was William Heathcote de Lancey, who was Bishop of Central New York when I was a lad at my home, which was in the Bishop's diocese, and I remember in what affection and esteem our family held this earnest, divine and most noble gentleman. And not far away was "Bedford House," pleasant and hospitable, home of Chief Justice Jay, and it was there and in the Judge's delightful library that Cooper gained no end of suggestions and inspirations for his book. The Judge as he sat and smoked his long clay pipe told Cooper the story of a certain spy in the Revolution and of his struggles and escapes and unselfish loyalty, and this gave our first American novelist an idea for his "*Harvey Birch*." Peddlers with staff in hand and pack on back were frequent visitors at country houses at that time, and it was after a visit of one of these to Cooper's cottage that Harvey Birch's part in the coming story was decided upon. And an old time house below Cooper's place called "the Locusts" appears in the story as the home of the Whartons. Also some of the relics still remain of the "Four Corners" inn where Betty Flanigan lived and where the British had imprisoned the spy with a sentry at the door, and where with the aid of a bonnet and petticoat of Betty's the spy made good his escape in the very face of the enemy, while Betty was asleep snoring, thus deceiving the sentry.

Of the character of "Betty Flanigan" Miss Edgeworth declared "an Irish pen could not have drawn her better."

The representation of "Jeannette Payton," the aristocratic and attractive maiden aunt in the Wharton family, was suggested by the portrait of Mrs. Peter Jay (Mary Duyekinck) and his Sarah Wharton no less closely follows the portrait of Mrs. Jay's older sister, Sarah Duyekinck, who became Mrs.

Richard Bancker, and these portraits are now owned by a daughter of a nephew of Mrs. Peter Jay.

At the time this pioneer of American fiction came to Westchester county to get a wife he entered a most interesting literary circle consisting of the weird dreamer, Edgar Allen Poe, the sunny-spirited Washington Irving, and his friend and collaborator, James Kirk Paulding; and here also lived and wrote, Tom Paine, Seabury, Wilkins, J. Rodman Drake, James Parton, Gouverneur Morris, Daniel D. Tompkins, John Bigelow, Horace Greeley, James Watson Webb, besides a host of lesser celebrities.

'Twas, indeed, a region full of literary as well as natural attractiveness and charm. In 1827 while Crosby was in New York attending Court he was invited by Mr. Sandford, proprietor of the Lafayette Theatre, to attend the representation of the drama of the "Spy" performed especially for the occasion, and Crosby complied, and the papers having announced the circumstances, the audience was large and it received the old soldier with applause, which he modestly acknowledged from his seat in one of the boxes. On December 15th Crosby wrote a letter to the Journal of Commerce in which he says: "I was much gratified with the performance; it created emotions in reflecting upon the glorious result of our labors during that perilous time, and having been spared to enjoy those blessings for half a century, I can lay down my weary and worn out limbs in peace and happiness, and my most earnest and fervent prayer is and shall be that they may be perpetuated to the latest posterity."

At the close of the war Crosby retired to Southeast and there cultivated a small farm. For all his revolutionary services, wherein he risked his life an innumerable number of times, he received only the trifling pittance of two hundred and fifty dollars. He married twice (his second wife was the widow of Colonel Greene) was the father of four children, two sons and two daughters. For twenty-eight years he was a justice of peace in the town of Southeast and for fourteen years was a deacon in the Presbyterian Church. He had also been deputy sheriff and was respected by everybody. In Cooper's introduction to "The Spy" he speaks of a Mr. ——, then in Congress who was



MARY DUYCKINCK
(Mrs. Peter Jay)

SARAH DUYCKINCK
(Mrs. Richard Bancker)

doubtless his good friend Judge Jay, of Bedford, who had a suitable sum appropriated for *Harvey Birch* who was his agent, "necessarily suppressing the name," and then when at his summons Harvey and he "went in a wood at midnight," the former complimented his companion on his fidelity and adroitness and tendered him the money. The other drew back and declined receiving it. "The country has need of all its means," he said, "as for myself I can work and gain a livelihood in various ways."

"Persuasion was useless for patriotism was uppermost in the heart of this remarkable individual and Mr. —— departed, having with him the gold he had brought and a deep respect for the man who had so long hazarded his life unrequited for the cause they served in common."

In his novel Cooper gives this incident as occurring between General Washington and *Birch* in New Jersey. Washington said: "You have I trusted more than all; I early saw in you a regard to truth and principle that has never deceived me, and you alone know my secret agents in the city, and on your fidelity not only depend their fortunes but their lives. You are one of the very few that I have employed who have acted faithfully to our cause; and while you have passed as a spy of the enemy have never given intelligence that you were not permitted to divulge. To me and to me only of all the world you seem to have acted with a strong attachment to the liberties of America. It is now my duty to pay you for your services, here are one hundred doubloons, you will remember the poverty of our country and attribute to it the smallness of your pay. It is not much for your services and risks, I acknowledge, but it is all I have to offer; at the end of the campaign it may be in my power to increase it."

And *Harvey Birch* refuses the money saying "No, no, not a dollar of your gold will I touch, poor America has need of it all." And so the great general and faithful patriot spy part. In the last chapter of the book, *Harvey Birch*, thirty-three years later, then an old, yet active man meets Wharton Dunwoodie, the son of the Captain, at Niagara Falls, and taking his place in the fight of Lundy's Lane is killed, the bullet passing through a

tin box and entering his heart. Dunwoodie opens the box and finds in it this paper: "Circumstances of political importance which involve the lives and portions of many have hitherto been kept secret, which this paper now reveals. Harvey Birch has for years been a faithful and unrequited servant of his country. Though man does not, may God reward him for his conduct.

"GEORGE WASHINGTON."



Lady Moody's Grave

“For Conscience Sake”

BY CORNELIA MITCHELL PARSONS

INTRODUCTION

THE Town of Gravesend, Long Island, where the scene of our story is laid, named by Gov. Kieft after the Dutch town of Gravensande on the River Maas, Holland, comprised only about ten acres. It was laid out in circuit by Evart Peterson and Harmon Vedder in the name of De Wolf, the merchant of Amsterdam. Under claim of ownership, Gysbert Op Dyck had ordered the town cattle to be driven away, and had a salt kettle erected on the Island of Coney notwithstanding the Magistrate's having ‘prayed mandormus’ that the town of Gravesend might be in possession of Coney Island. In 1643, as Evart Peterson and Harmon Vedder brought suit, the Magistrate gave it to Lady Deborah Moody and her descendants for hay and pasture lands. A kind of citadel or large building of logs was erected in the centre of the hamlet where the people took refuge when attacked by Indians.

The dwelling of Lady Deborah Moody was in this enclosure, and the second substantial house, built a year or so later, was not far distant. It was in the second dwelling where we find the Lady of the Manor, Deborah Moody, her son, Henry, and her ward, Frances St. John. Lady Moody was the widow of Sir Henry Moody of Garsden in Wiltshire; he was one of the baronets created by James in 1622. The father of Lady Moody was a member of Parliament in the time of Queen Elizabeth, and her uncle Edward, a member in the reign of James and Charles the First. His son, Sir William, was uncle by marriage to Oliver Cromwell.

One of the regulations of Parliament during these troublous
(839)

times was that "No person shall reside beyond a limited time from their own house," that a good example might be set for the poor. Lady Moody was then in London, and the Star Chamber commanded her and others in forty days to return to their country homes. The many restrictions of Church and State were becoming burdensome to Lady Deborah Moody, and she decided she would not be a slave to Crown or Bishop. Having many enemies who were only anxious to injure her reputation, she, for Conscience sake, left her beautiful home in the Motherland and came with a few trusted friends to the New World that she might serve the God of her Fathers in peace and righteousness. Her son, Sir Henry, after his father's death, having succeeded to the baronetcy, did not sail with his widowed mother but followed a short time later. The only daughter remained in England, even though the family estate at Garsden was sold. Nothing daunted, Lady Moody landed in Massachusetts Bay Colony. In 1640, she was granted fourteen acres to be settled by her as a plantation. In 1641 she bought from Sir John Humphreys "his farm." She had a small farm at Salem, next to that of Hugh Peters. She had hardly settled there, when in the summer of 1643, being interested in the doctrines of her old friends, Roger Williams and the Anabaptists, she said farewell to tyrannical New England, and taking passage with her friends, Rev. Mr. Walton of Marblehead, Mr. and Mrs. King, and the wife of John Tilden, all of whom had attended the meetings at the house of Mrs. Anne Hutchinson, came to New Amsterdam and settled in Gravesend, Long Island. Governor Winthrop writes:

"Rev. Mr. Walton of Marblehead is for Long Island, shortly there to set down with my Lady Moody and from under Civil and Church; watch among ye Dutch."

In 1641, many from Lynn were disaffected and followed to our Long Island shores, seeking the protection of the Dutch where the States General and Governor Kieft promised liberty of Conscience.

Lady Deborah Moody was a woman of noble instincts; one who in those troublous times stood fearless for religious freedom. She was the friend of Peter Stuyvesant, and until the time of her death ever held the love of her colonists.

CHAPTER I

THE HOME OF LADY DEBORAH MOODY. AN INDIAN OUTBREAK

"The lilies of the summer field spin not
Through golden hours of ease,
Yet each its grateful incense yields,
In fragrant ministries."

—REV. JAMES B. KENYON.

There were rows of nodding hollyhocks, pink and purple, which formed a background for the modest sweet-Williams, candy-tuft, bachelors-buttons and mignonette, lining the pathway on either side, but screened by the high box. A very wealth of color greeted the eye; perfume like incense was wafted on the summer breeze. At the end of the path rose before one a broad porch of the half timbered house of Lady Deborah Moody. It stood in the north-east corner of the stockade, directly opposite what was then called Johnson's lane, and her bowerie was across the street in the Village of Gravesend, Long Island. The high, peaked roof and casement windows opening outward; the tall brick chimney near the back, covered with ivy from the Mother Country, made a picture refreshing to the eye on this August day. A few forest giants stood in the background, as if keeping guard, and beyond in the dim distance, through a clearing, one caught glimpses of the sea and Coney Island, with its thickly wooded banks, long stretches of sand, and blue waters; all being outlined by gray sky and white, fleecy clouds.

The half door stood invitingly open; the brass knocker, a griffin with claws, seemed to smile a grim welcome, as it held the brass ring in its mouth. Opening from the wide cool hall was a low-ceiled library with open rafters and wainscoted walls; book-cases on either side were filled with rare volumes bound in sheep-skin. A high mantle held quaint vases and stuffed birds. Underneath in the broad fireplace with its blue tiles representing Scripture scenes, were brass andirons and huge logs, a goose wing as a brush hung with the shovel and tongs. As it was summertime, branches of asparagus adorned the hearth. Several high-backed, rush-bottomed chairs were drawn up under the two

casement windows, whose tiny panes were spattered from the lately fallen rains.

The Mistress of the Manor, Lady Deborah Moody, sat before a desk of Flemish oak, a substantial piece of furniture. Her eyes were large and dark, and her strong but sweet face framed by the snow-white hair on which a cap of delicate lace rested. Her gown open at the neck showed the comely lines of the fine throat and figure, and though no longer young, she sat erect in her chair. The narrow candle shelves on which tallow dips in high silver candle sticks rested burned dimly, the tallow forming strange figures as it gutted the sides. There were several drawers below with swinging handles; in the middle was a small cupboard from which opened a tiny door, with rows of three little drawers on either side. On the desk stood the ink receptacle and a quaint Delft shaker that held the sand used for blotting. There were quills of all sizes ready for use. This piece of furniture with its wonderful carvings in high state of polish shone like a mirror, and was evidently a cherished reminder of the Old World now so far away. Above the desk hung a portrait of a man in middle life, dressed in the garb of a gentleman of the Seventeenth Century. The features were regular, and the eyes though stern, seemed speaking. There were other portraits in the room, but this one stood out in relief. A ray of sunlight, forcing its way through the casement, fell on his face. For an instant, the eyes seemed to soften. It was not a bad face, but one that had seen trouble. The Lady Moody raised her eyes from a closely written parchment, and laying aside the quill she had been using, uttered a deep sigh. Tears filled her eyes as she glanced at the portrait before her, and she turned her face away toward the window.

Outside the hollyhocks bent under their weight of raindrops, bowing their heads in the breeze as if they, too, were downhearted, for their blossoms were crushed and broken.

"Poor things," she murmured, "the whole world is indeed a sorry place; yet even after the storm, the sun shineth."

Hearing footsteps approaching, she hastily placed her hand over the parchment.

"Ah, Henry, is that you?"

This was said to a fair-haired man, with dark brown eyes and ruddy complexion. He entered with a gun in his hand which he had evidently been cleaning.

"How sweet the air is after the storm, my son."

"Gad, Mother, its cooling after the hot, sultry morning, but down in the meadows, the salt hay is spoilt, methinks, by the rain. I could get no one to fetch it in. It has been cut for days. Ah me, what a country this is; plenty of work and few to do it. One is either freezing in winter or melting in summer, one thing or the other, no half doings here. Give me old England, with its intolerance, its rain and humid atmosphere; I get tired to death of sunshine."

"True, Henry, but the sunsh~~me~~ is better for gout, than our everlasting rains at home."

"You speak still of it as home, my Mother! One would think you would be weaned by now."

"I do not regret the move, my son, for here among the Dutch, we can have liberty of conscience and worship as we will. I must try to forget the treatment I received in New England plantations. Ah me, religion not expressed is now treason. To speak is a crime; to be silent is the same. One knoweth not what the future hath in store. After the Baronet, your father, died I could not buckle down to threats and tyranny and the new world offered much."

"Gad, I can never forget, my mother, that those who suffered at home from religious persecution, come over here and do the persecuting act. Poor old Governor Dudley wrote, 'Let men of God in Court and Churches watch, or such as do a toleration hatch.' Hark, heard you a noise, Mother?"

"No, Henry, I heard nothing."

"You have no nerve nowadays, it seemeth to me, Mother."

"No, I passed through too many horrors and worries in England and Lynn. I can never forget the bitter past. The Dunches were never cowards; they were for liberty of Church and State."

"Gad, you did but jump from the frying-pan into the fire, as far as New England plantations are concerned. Hey, Mother, if

you must follow the worthy Dr. Roger Williams and the Anabaptists, we must continue to sizzle in the pan."

"No one shall force me to do anything which I feel to be wrong, my son. If I doubt honest common sense and believe that any have become through baptism a part of the Church, that it is no ordinance of the Lord, then no one can make me believe in it, not if I burn for it."

"Hey-day, my noble Mother, one cannot be too careful about expressions; danger lurks on every hand."

"But Henry, where is Frances?"

"I know not, my Mother, but an hour ago, just before the thunder storm, I saw her pass out of the house, her basket on her arm. It appeared to me as if she were planning a call on the Holmes family, taking them a bit of jelly. Two of the children are ill of the Marsh fever, but I asked Frances no question, as she hates to be pestered, and I, for one, do not blame her. She is her own mistress, even though a ward."

"Yes, my son, but I like not her walking on the lonely high roads by herself. These are dangerous times; the country is unsettled. She is young and beautiful, but venturesome. I would have Dawkins accompany her when she passes outside the stockade. One must of a truth be careful. The red-skins have departed for the present but some of the strolling Dutch are not to be trusted. I feel troubled about the maid. Go you, Henry, and see what you can, as to her whereabouts."

"Truly, Mother, I am your humble servant, and, (bowing low) depart to do your pleasure. I would tell you a secret, Mother. Frances hath found favor in my eyes. I love her as a—well, a sister."

Lady Moody glanced into the handsome face of her son and her eyes filled with tears. "That is of a truth right, my son. Keep on loving her; you know the wish which lieth so near my heart."

"Mother, should the red-skins ever attack you here, fly to the secret cupboard, but never fall a prey into their bloody talons."

"But I have a weapon here which never leaveth me; I laid it aside while writing." Lady Moody picked up a curiously shaped dagger, which she carefully drew from its leatheren case. "This

is my protector, when my boy is absent. It hath followed me to the New World; it will follow me to my grave. If I die, Henry, bury it with me. It was given me by one dear to me in my girlhood, before I ever saw your father, the Baronet. Do not forget, for it is sacred, and holdeth a secret. That and the picture, there, are sacred. Remember." Picking up the dagger, she fingered it tenderly. "Tut, Henry, we will not turn cowards. Hark, there is that noise again, near the enclosure."

"I will run and see what cansesthe trouble."

"Call Daniel King and James Hubbard, if you have need of any help."

Clutching his gun more tightly, Sir Henry disappeared through the doorway. Lady Moody rose quickly and followed her son, standing in the half open door, as he hurried toward one of the stockade gates. Shouts and piercing screams were heard; then a calm, like that before a storm. A horrible war whoop rent the air and from all sides arose the cry, "The Indians, the Indians are upon us; close the gates." The sound of firing and a cloud of smoke hid all from view. How long she stood there she never knew. She saw a tall thin figure on horseback, trying to force his way through the dense mass of humanity. A cry of terror escaped her; she covered her face with her hands, but only for an instant, and peering forward she saw the same rider approaching the house.

"By my faith, it is the Reverend Mr. Roger Williams," she said.

"Yes, of a truth, Lady Deborah, all danger is now over."

Just then one of the servants rushed forward and helped the much bespattered gentleman to alight.

"That was a narrow escape for you, Dr. Williams," she said.

"I had a few words with the chieftain. He recognized me at once; I had in the past saved his life. The red-skins were on my track but I whipped up my good beast, and just squeezed inside the stockade as the gates closed."

"Were there many, think you, or may we not judge from the noise and confusion of voices?"

"There were a goodly number, but you have no longer cause to fear, my Lady. Sir Henry as I passed through was doing his duty valiantly, and John Tilden is a brave man."

"Forty of the townspeople have promised to protect us."

"Yes, I saw the women and children driven in like sheep before me. The dust was so thick that I thought my eyesight would suffer."

"I thank God, you have come at this critical time."

"Yes, noble Lady, I have travelled swiftly, as the message was brought to my ears at daybreak. The Governor feared an outbreak, and asked if I would go to Gravesend as peacemaker. I had only arrived last night from Providence Plantation, making ready for my departure for the Mother Country. The whole cause of trouble came because an Indian, when drunk, had killed a Dutchman, and the Indians on the Island had united with those on the Mainland. The Dutch had taken some of their corn from them and they retaliated by burning and destroying their homes. As I dodged the arrows I had only time to see the Chief for a moment. He promises to keep the peace. So for the present you will have no more trouble."

"I have heard of Indian promises before this, but it may be as you say. 'Our ways have not been those of pleasantness nor our paths of peace.' We do but reap the harvest we have sown."

"Quite true, Lady Deborah. How like you this new home in the wilderness?"

"We are nearly settled, but have not yet received our patent, promised by His Honor, Gov. Keift. The Dutch are a slow people."

"Yes, truly, slow, but sure."

"My application to sail from Boston was denied by Massachusetts Bay authorities, so I have come to Manhattan Island that I may take ship from there. Our friends, Mistress Anne Hutchinson and her family, have come to Ann Hook, as perchance you know, there to found a home in the wilderness. Her poor husband was in all my troubles a kind friend to me. He sat at the bar when I was tried for heretical teachings. May the good Lord protect his family. He has gone where persecutions may not follow him."

"And Mary Dyer, what may have become of her?"

"She, too, hath been banished from the Colony and though I have done what I could, death stares her in the face."

Tears filled the eyes of Lady Moody. "Will these persecutions never cease? Must Quaker, Anabaptist, and Jesuit fare alike? Ah, Dr. Williams, even though in grave danger of our lives here in the Dutch settlements, we can at least worship as the Spirit dictates."

"Capt. Underhill tried to take me prisoner, and forced me to board the boat, but three men and eight women protected me. For a time I was hidden from the view of mine enemies. The Lord sustained me. John Winthrop, our good Governor, hath been a bitter enemy of Mistress Anne Hutchinson, but ever a friend to me. Nevertheless I wish not to have him know of my sailing from New Amsterdam."

"You wish not John Winthrop to know of your being here? Good Dr. Williams, tonight he may arrive as my guest."

"May Heaven protect me. Have you no prophets' chamber where I may be concealed for a time? Dr. Mather said of me that 'I have a wind-mill in my head.' Mayhap I have; the good Lord only knows. And may I be found blown in the right direction, when I am turning round, is my constant prayer. But I have greetings for you, Lady Moody, from many old friends. On the morrow we can talk over our secret."

Lady Moody placed her finger on her lips. "When you reach Old England's shores be wary."

After Roger Williams had partaken of some substantial refreshments, Lady Deborah hurried him to the foot of a ladder, saying, "Let us not play with danger; follow me, Reverend Sir, to the loft." While speaking she placed her foot on the lower round. "This, Mr. Williams, we pull up at night for protection."

Roger Williams followed his stately hostess, as she easily, without bending her head, made her way up to the loft, with its two rooms under the sloping roof. Opening into one of them was a dark closet. A few books bound in sheepskin were arranged on a shelf. Lady Moody deftly removed one and a bit of cord came into view. This she pulled slightly, raising a large board. Now, Dr. Williams, there is not room for both; you must be humble and crawl below into the cupboard."

The worthy Divine did as he was bidden.

"See, there is the chair, I promised, and here is a candle and flint."

"The Word of God will give me reading matter, being a lamp unto my feet, and a light unto my path. Meditations are sweet to my soul after the trouble, anxiety and horrors I have undergone in dark New England."

"Later will I return with some refreshments. Here is a jug of water for your use. The place is well ventilated, so fear not for air to breathe."

"Faith, noble lady, I find the secret place much to my liking, and shall rest content here."

"I hear voices and must descend. Did they not see you as you entered the gates?"

"No, I doubt the sharpest eyes in that awful dust could possibly have recognized the features of Roger Williams; it was well nigh impossible. My long cloak concealed me, and the drooping brim of my hat hid my features from view."

"None need know aught of your presence, Sir. It maketh the tear drops to fill my eyes, that you must here remain in close quarters, such a warm, sultry day. For the present, fare you well, Sir."

The words had no sooner fallen from her lips when the eyes of Roger Williams saw the board adjusted in its place and he scarcely heard the lady's tread, as she stealthily made her way down the ladder. Falling on his knees, the strong man prayed.

"O Lord, thou deliverer of Israel, I thank thee for thy protection and love. I know that underneath me are the everlasting arms which will hold me safely, whether I journey by sea or by land, for both are thine. Protect with thy saving power this household, especially the one of tender years; thou knowest all. Protect and be merciful." Then the softly modulated voice sank to a whisper; the lips moved. Roger Williams, like Moses of old, talked with God. Earth with its sorrows and trials slipped away, and a light, not of this world, illuminated his features.

Lady Moody was only just in time to meet the many neighbors who had crowded into the castle as they called it, to thank her for her protection. They had been concealed in the wood house that adjoined the kitchen, and begged that she would permit them to remain over night, as it seemed hardly safe to venture back to their homes. The women were unnerved and white; their little ones were hiding tear-stained faces in the folds of their Moth-

ers' skirts. Now and then the wailing of a babe would break the stillness.

"These are indeed troublous times, but I rejoice that we have all escaped slavery or worse than death. Sir Henry reached the gates just in time? But here he comes to speak for himself."

"When the red men come again we may have to call upon the Dutch for assistance," he said. Lady Moody had given numerous directions, and soon the serving maids had drawn the three large oaken tables together, covered them with snowy homespun, placing great platters of fowl and beef at either end. The table fairly groaned under its weight of good things. After grace had been said, all took their places, and soon were earnestly at work partaking of the sumptuous repast.

"Mother, I think our scalps are safe for the time at least. The red men remind me of naught else but hornets. They come in swarms and settle down to draw each drop of blood—a devilish lot."

"Yet," remarked Mrs. Hubbard, as if catching her breath, "we must thank Almighty God that we are safe; but where is Mistress Frances?"

All rose to their feet, and Sir Henry jumped for his gun, which hung near where he was sitting.

"I thought," he gasped, "she had returned with the others when the attack was made. God help us."

Lady Moody turned pale. "Henry, saw you not the maid?"

"Nay, my Mother, I have neither seen nor heard aught of her since she passed with her basket on her arm down the garden path. It was, as I have before told you, just an hour before the storm came up."

"Some one said she had returned, and so my heart was at rest. The Lord reigneth, his power is over all." She buried her proud face in her hands and left the room. Henry followed, trying to reassure her.

"I will take some of the men with me, Mother, and we will leave no stone unturned."

Suiting the action to the words, followed by six of the armed men, they disappeared. Voices at the table were hushed; fear was written on each brow.

CHAPTER TWO

THE DISAPPEARANCE OF FRANCES

"The leaves are motionless; the song birds mute.
The very air seems somniferous and sick.
The spreading branches with o'erripened fruit,
Show in the sunshine all their clusters thick;
While in the quiet a mellow apple falls
With a dull sound within the orchard walls."

—JAMES BARRON HOPE.

It looked and felt like a storm, but Mistress Frances, the ward and adopted daughter of Lady Deborah Moody, had made up her mind to visit the two little Holmes girls, who had been attacked by the marsh fever the evening before. The weather had been unusually warm for the season, and the good Dutch Doctor from Manhattan Island had used the word "unhealthy," applied to Gravesend and its people; had urged brimstone and molasses and a cooling drink. Frances thus, with a basket on her arm, had hurried down the fragrant flower bordered path, and made her way to the dusty high road, on which the Holmes' small thatched cottage stood. The strong salt air from the marshes blew into her face, making the pink and white cheeks quite rosy, and a pair of blue eyes, with long, black lashes looked dreamily out at the dusty road as it stretched before her like a ribbon. Her eyes seemed to partake of the color of her hood, which had fallen back, being held fast by a broad ribbon of the same color. She was intent on watching a flock of sea gulls, wheeling above her head, for these had ventured far inland as if dreading the coming storm, and she wondered if there were time for her to make the visit. Frances heard nothing of the stealthy footsteps which followed in the distance, the figure now hiding behind a rock, now advancing more boldly, then disappearing within the thick tangle of blackberry bushes which fringed the roadway. She was thinking of her errand of mercy, of the feverish little mouths, and the delight they would experience tasting the current jelly. Frances was ever an Angel of Mercy, and far and wide in the small hamlet of Gravesend the people looked for her coming when either joy or sorrow knocked at their doors. Her strength of character, her beauty and grace, the sweet unselfishness for all made her ever a welcome guest.

The shadow that followed her now took form. It was an Indian maiden, dressed in her tunic of leather, and short skirt, adorned with feathers, and colored beads arranged in fanciful designs. Her raven-black hair hung unconfined over her shoulders and a coronet of red and yellow feathers made a framework for her face. Her black eyes were fixed upon the graceful, girlish figure before her. She seemed to dart through the air, so quickly did her small mocassined feet pass over the rough road. Until, touching the silk scarf worn by Mistress Frances, she forced her to turn suddenly. A scream of terror came from her lips—"What is it? What want you, girl?"

"Lily-Pale-Face, Minatonka come to warn of danger. Minatonka's father, great brave, kill pale-face. Storm come, rain, then Indian kill. Minatonka love Lily-Pale-Face; I save her. Time short. Clouds roll back thunder. It comes—the storm. Lily-Pale-Face safe with Minatonka. Minatonka hide in cave. Come quick."

Mistress Frances, with a look of terror on her face, saw that the Indian maid was in earnest. She recognized her as one whom she had once saved; and Minatonka, the daughter of the Chieftain, had never forgotten and had learned her lesson of love, taught her by the great, white Spirit. The running brooks, the flowers, the sunshine and the stalwart trees had been her only teachers; Minatonka needed none other. When she met this maiden of the pale-face tribe, love had conquered prejudice of race. She loved Lily-Pale-Face.

"Come." She placed her finger on her lips as if to enjoin silence. "Follow; no time. We must wind, even as the snake, in and out."

As the maid spoke, a drop of rain fell on Frances' face, then another and another. The maid, catching her skirt, dragged her after her, taking a path under the chestnut trees that grew so thickly back from the road. The path grew narrower, and at last was lost in a tangle of shrubs and vines.

"Here Lily-Pale-Face safe; storm comes."

By this time, terrible peals of thunder were heard and vivid lightning flashed into the faces of both, lighting up the gloom of the forest.

"Follow; no time. Lily-Pale-Face wet; storm here."

The terrified Frances followed her captor, drawn on by a strange something. Minatonka pushed aside the briars and long grass disclosing a great rock. This lay at the edge of a sandy beach, and the opening was fronting the broad expanse of water. Coney Island lay before their eyes.

"Lily-Pale-Face, crawl in there." And setting the fashion she advanced on hands and knees into the cave, for such it was. Frances was out of breath and wet from the storm. The ashes from a recent fire were piled up in the centre of the cave, on which a stick of wood was smouldering. Minatonka added some sea-weed, which she discovered in the corner and both were repaid by a cheerful blaze, which lighted up the darkest recesses. On the opposite side was a heap of dried leaves, that had evidently been used quite lately as a bed. A large shelf and a Dutch flask lay near the improvised couch, and way in the back, Frances saw a quantity of dried corn hanging from the rocks; also a pile of drift-wood and chips.

"Why have you brought me here, Minatonka?" she gasped.

"Minatonka save, save. Think time late. Ran many leagues. Not tell Indians. Come alone. Storm saved you. Indian kill Minatonka if know she save Lily-Pale-Face. Cave here; Indians not know. Storm gone, I cover stone; grasses, sea-weed I put before. Minatonka watch Lily-Pale-Face."

For the first time Frances seemed to see an empty flask. "Another pale-face here before, Minatonka, see, fire-water." Creeping around, she saw in the sand, written in all probability by a thick stick, letters which formed the word "remember." "Remember, how strange," Frances murmured. She examined the cave with great care. The storm increased in violence, but after two hours the sun shone, and one ray made its way into the dark recesses. Minatonka crawled to the entrance, looking carefully in all directions.

"Sick man better now, go away, say come back soon. Fear Indians kill, and Dutch. Hide here. Minatonka give medicine, herbs and food to pale-face. Bring him here in canoe. Pale-face good to Minatonka."

Frances saw that her companion was speaking the truth.

What could the word "remember" be. Who was the man who had so lately visited the cave?

The air was sweet and very salt. How refreshing it was to Frances as it blew upon her hot cheeks and forehead. Only the music of the waves broke the stillness. Suddenly the horrible war-whoop of the Indians fell upon her ears. Frances turned pale.

"You will save me, you are my friend!"

"Lily-Pale-Face, I save, even if they kill. No fear, pale-face safe, safe. Dutch bad, steal corn, Indians kill, kill. I no love kill. Minatonka save."

Frances pictured the horrible things that were happening. Lady Deborah Moody alone, perhaps; Sir Henry fighting and falling. She buried her face in her hands and prayed. She could not shut out that awful picture.

"I thank Minatonka," she said, turning to the Indian maid,— "but my Mother, pale-face Lady Moody, will die."

Tears filled her eyes and ran down her cheeks. Minatonka was kissing her hands and weeping with her, while she murmured,

"I save all, if could; I save Lily-Pale-Face. Great, white Spirit protect, great, white Spirit save."

Minatonka then crawled from the entrance to the cave and disappeared. All was still in the distance. In half an hour she returned, bringing some apples, which she placed before her friend.

"Eat, eat," she said, "all safe now; fight over. The good Brave Williams come, speak to Chief; Indian love Brave Williams, no burn, gates shut, all go away, go far away; not come back now. Lily-Pale-Face safe, she return; she go back to wigwam. White-face show Minatonka cave; Minatonka not tell."

She pointed to the flask. "White-face gone, show Minatonka the way; secret. Follow, follow."

Frances did as she was bidden, crawling to the upper part of the cave; both were soon able to stand erect as they emerged into what seemed to be a tunnel, lined with stones. They walked for some distance, about two miles; coming suddenly to a halt, as the passage was filled with underbrush.

"Follow, Lily-Pale-Face." The Indian girl felt among the

stones and discovered steps, one above another. Reaching the top, she pushed something back; daylight appeared, showing to Frances, the garden of Lady Moody's house. It lay just before her. A perfume of the flowers was wafted to her on the fresh breeze. "After the storm, the calm, thank God," she said.

They were screened from the house by a group of trees and underbrush. Minatonka looked up into her friend's face, and smiled.

"Lily-White-Face safe, wigwam. Keep treaty; Lily-White-Face need me, I come again."

She took from her arm a curious bracelet, composed of gold and blue beads, and clasped it upon that of Frances.

"When in danger send; I come."

In a moment she disappeared in a jagged hole in the ground, and the large stone had been pulled into place; how, Frances could not see. It moved as if on a hinge. She stood for a moment like one in a dream, and hastened her footsteps as she approached the low door. All was quiet. At her desk sat Lady Deborah Moody; she was writing, but tears poured from her eyes, and fell on the closely written parchment. No longer able to restrain herself, Frances ran forward and fell at Lady Deborah's feet, weeping for very joy. In a few moments all was explained, and Lady Moody, happiness written on her face, hastened out to tell the joyful news that the dear child was safe; all, all was well. Half an hour before, the disappointed, anxious men had returned, unsuccessful in their search. The household slept lightly that night, but no harm came to the little hamlet at Gravesend.

History of the Mormon Church

BY BRIGHAM H. ROBERTS, Assistant Historian of the Church.

CHAPTER CXI

THE JUDICIAL CRUSADE OF 1870-2—THE ENGLEBRECHT CASE—MALICIOUS PROSECUTIONS—MCKEAN REVERSED—TRIUMPH OF BRIGHAM YOUNG

WE have now to deal with the judicial crusade in Utah of which Judge James B. McKean was head and front, through four troubled years of Utah's history, 1870-1875.

Judge McKean was appointed chief justice of the Utah supreme court in July, 1870; and arrived in Salt Lake City on the 30th of August. He was assigned to the 3rd judicial district which included, it will be remembered, Salt Lake City. Three days before his arrival the liquor establishment of Paul Englebrecht, Christian Rehenke, and Frederick Lutz had been entered by the city police and the entire stock of liquors of the value of about \$22,000 had been destroyed. As this case was finally disposed of by the U. S. supreme court, and is the one which overthrew the fanatical judicial procedure of Judge McKean's reign in Utah, it is necessary to set it forth somewhat in detail. And also it exhibits how aggravatingly the local authority was contemptuously defied, by those who thought they could find special protection under the rulings of the federal courts.

The Englebrecht establishment was supposed to be a wholesale liquor concern; and under the city ordinance it was provided that a wholesale liquor license should not authorize any person to sell either spirituous or vinous, or fermented liquors in less quantity than ten gallons, or in original packages; and

bottled liquors or wines only in original packages as imported, and in no case to be drunk on the premises of parties so licensed.¹ In disregard of this provision the Englebrecht concern sold at retail as well as wholesale, for which Englebrecht was arrested and fined three different times. Notwithstanding this,² when he applied for the renewal of his wholesale license, about a month before the concern's stock was destroyed, the application was favorably acted upon. The 8th section of the city ordinance regulating the liquor traffic provided that the city council should determine the time for which the license should be given, the amount to be paid therefor, and should require bonds with security and determine the amount thereof for the due observance of the ordinance, etc.³ But after the city council signified its willingness to grant the license, Engelbrecht refused to sign the bond required, which, of course, left him without a license, but notwithstanding he had no license, *he continued to sell liquors both wholesale and retail* in defiance of the city ordinance; for which, during the month of August Engelbrecht was several times arrested and on three occasions fined, but in each case he took an appeal, denying the city's jurisdiction. Concerning these appeals no decision had been reached, as the district court had not been in session since they had been made. Section 7 of the city ordinance in relation to the liquor traffic provided that if any person having reasonable cause to believe that any house or place is established and kept for the purpose of selling or otherwise disposing of liquors, without a license from the city, and will make oath of the same, describing the place, and if upon investigation it shall so appear, the mayor or alderman before whom such complaint has been made may issue his warrant, directed to the city marshal, or any of his deputies, commanding him to enter said house or place and demolish all things found therein made use of in the sale of liquors, etc.; and to arrest the person or persons owning, keeping or conducting said house or place, and bring them before the court; where, on conviction, the offender was

1. See City Ordinance in full *Deseret News—Weekly*—of Aug. 31st, 1870, Sec. 2.

2. Under the city ordinance violation of the ordinance subjected the offender to both fine "and forfeiture of license" (*Ibid.*, Sec. 9. Hence the "notwithstanding this" clause above.

3. *Ibid.*, Sec. 8.

subject to fine, or imprisonment or both. The above course was strictly followed in the procedure against Engelbrecht. A person made the required oath before alderman Jeter Clinton. The order was issued to the city marshal, Mr. J. D. T. McAllister, who with the chief of police and a force of eighteen regular and special officers went to the Engelbrecht establishment and "quietly but sternly" proceeded with their duty. The whole stock of liquors was destroyed as before stated.⁴

For this action Engelbrecht entered a civil suit against the officers for the recovery of a three-fold value of the property destroyed, under a territorial statute providing for treble damages when property was unlawfully, wilfully, and maliciously destroyed. During the progress of the case Judge McKean in ruling upon a demur of the plaintiffs to the answer of the defendants that their action in destroying the liquors of the Engelbrecht concern was not unlawful or wilful or malicious, but done in pursuance of legal authority, overruled that demur, so that if the defendants could establish absence of wilful malice it would reduce its offense to mere trespass, in which case the defendants could only be mulcted to the amount of actual damages, instead of treble damages. But when the trial jury, from which every Mormon had been excluded either for cause or on peremptory challenge,⁵ brought in its verdict, it was for treble damages amounting to \$59,063.25. On appealing the case to the Territorial supreme court the judgment of the trial court was affirmed. An appeal was taken to the United States court on a writ of error, the defendants challenging the array of the jury in the third judicial district of the Territory. "The controlling question raised by the challenge to the array," as the supreme court in its decision subsequently said, "is, whether the law of the Territorial legislature, prescribing the mode of obtaining panels of grand and petit jurors, is obligatory upon the district courts of the Territory."⁶

The record of the case shows that the court originally directed a venire to be issued in conformity with this Territorial law, and

4. The account of the procedure in detail in *Deseret News—Weekly*—of Aug. 30, 1870, 354.

5. See *Deseret News—Weekly*—of Nov. 9th, 1870, p. 465.

6. Clinton vs. Engelbrecht, 13 Wallace, p. 434.

that a venire was issued accordingly, but not served or returned. The record also shows that under an order subsequently made an open venire was issued to the federal marshal, which was served and returned with a panel of eighteen petit jurors annexed. These jurors were summoned from the body of the county at the discretion of the U. S. Marshal.

It is only proper to say that chief justice McKean on his arrival found that his associate justices Strickland and Hawley, who preceded him into the Territory by nearly a year, had already decided that the probate courts had no jurisdiction in criminal cases, and had set aside as invalid the territorial law respecting the selection of grand juries; and Mr. Wilson, preceding Judge McKean in the office of chief justice, about the same time, had decided in the case of Orr vs. McAllister, that Mr. Orr the United States marshal was the proper executive officer of the district court, and that McAllister, who was territorial Marshal, was not.⁸ It was not Judge McKean, then, who took the initiative in these several steps⁹ that did such violence to the laws of the territory, and the principles of local self-government; his part was to acquiesce in them, to confirm and emphasize them, and to proceed under them until suddenly and effectively halted in his mad, judicial career.

In the September term—1870—of Judge McKean's court, he rendered an important ruling that indicated his policy with reference to the naturalization of alien Mormons in the cases of John C. Sandberg, a Swede, and William Horsley an Englishman. In the pursuance of his inquiries the Judge asked whether or not they believed the act of congress of 1862, relating to "bigamy," to be binding upon them. Sandberg in substance replied that he regarded it as right under the law of God for a man to have more than one wife at the same time; Horsley refused to answer the question. Neither of them had more than one wife, but the Judge refused them naturalization, and rendered the

8. Baskin's reminiscences, the Englebrecht case, ch. IV. Judge Wilson, who was not unfriendly to the Mormon people, as shown in preceding chapters, declared to delegate Hooper in Washington that he had rendered this decision according to his best judgment, and had furnished the pro-Mormon lawyers "Bros. Stout and Snow" all his reasons for his rulings, that they might have every facility for carrying it up on appeal. See Hooper's Letter to Snow date of June 5th, 1870. Hist. Brigham Young Ms., 1870, Vol. I, p. 980.

9. See History of the Bench and Bar of Utah—1913—pp. 28-29.

aforesaid ruling in the case.¹⁰ It may be said in passing that there was no law cited by the Judge which justified his specific inquiry as to the practically inoperative law of 1862 about "bigamy;" and there was nothing in the laws governing admission to citizenship that required "the applicant to be well disposed to any special law of congress, though such law may be supreme." "If it did," said a prominent lawyer of the period, "*it would require of him that* which is not required of any natural-born citizen. Every natural-born citizen, though he has not the right to disobey a law to the principles of which he feels opposed, has an inalienable right, which cannot be bought nor sold, nor surrendered, to oppose a principle in which he does not concur, provided that opposition does not amount to a resistance of the law. The very basis of civil liberty permits all citizens, native or naturalized, to have a voice and to cause their opinions, honestly entertained, to be heard in the councils, territorial, state, or national, and seek to have modified or repealed, any law to which they are opposed."¹¹ It would seem anomalous to require the surrender in an alien, in order to acquire citizenship, of rights which are conceded to the native born citizen, and which would inevitably be the rights of the alien as soon as admitted to citizenship.

In January, 1871, three applications were made by men who upon inquiry of the court stated that they were polygamists, but that they had entered into that relation previous to the enactment of the special law of congress against bigamy in 1862. Whereupon his honor in a ruling made upon their case declared that the common law was brought by the Mormon pioneers to Salt Lake valley when they first entered it; that the "common law" held polygamy as a crime; and therefore, the applicants for citizenship could not plead that since their plural marriages took place before the law of congress of 1862 that they were not law-breakers; and being law-breakers, under this rul-

10. "Sandberg," said the Judge, "satisfied the court that he is not, and Horsley failed to satisfy the court that he is, a man of good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same. The duty of the court is plain. These applications for naturalization must be rejected." The decision in full is found in *Deseret News—Weekly*—for Oct. 19th, 1870, p. 436.

11. Review of Judge McKean's decision in the Sandberg-Horsley cases, by Judge Z. Snow, *Deseret News—Weekly*—of Oct. 26th, 1870.

ing of the Judge, "these applications for naturalization must be denied."¹² At the same time there is no principle or practice better established by authorities, I am assured, than "that there is no such thing as a common law criminal offense under the laws of the United States." Under the practices of the federal courts of Utah, in this period, in the matter of naturalizing aliens, "no 'Mormon' need apply," might as well have been posted over the court entrance, unless he was willing to deny his religious faith.

In August, 1871, control of the penitentiary, under an enactment of congress, passed Jan. 10th, 1871, passed into the hands of the United States marshal, although it had been built, in part, by Territorial funds and had always, up to that time, been under the control of the Territorial marshal. U. S. Marshal Patrick would make only verbal demands for the control of the institution to pass into his keeping, and the Territorial warden, Mr. A. P. Rockwood, protested in writing to the surrender, both of the institution and of the prisoners, who were engaged in labor, and some of whom were kept in the city prison. For resisting the verbal orders of the marshal,—acting under direction of Governor Woods—and insisting upon some written order from a court of jurisdiction in relation to one prisoner—Kilfoyle—serving a sentence for manslaughter and held at the city prison—suit was brought against city Marshal J. D. T. McAllister and Warden A. P. Rockwood for resisting an officer.

At the hearing before Judge Hawley the warden and city marshal were bound over to answer to the grand jury at the next term of the third judicial district. In the course of this hearing Acting U. S. Attorney Baskin interrupted to say that *his way* in taking possession of the prisoner Kilfoyle would have been to put the guns of Camp Douglass upon the city, blow down the city hall and jail, and force possession of the prisoner with bayonets.¹³ Such was the spirit of the times. Indeed there

12. The ruling in full will be found in *Deseret News*—Weekly—of March 8th, 1871.

13. The incident, as reflecting the spirit of the times, is worthy of a more detailed presentation. Mr. Thomas Fitch was representing the defendants before the court and in the course of his defense, speaking of Warden Rockwood, he said: "All the defendant asked, as appears from the testimony, was an order of court. In his written protest, he says, 'I will surrender this convict on the order of some court

seemed to be a settled determination to appeal to and use the military power in civil affairs on the slightest provocation, or even without justification at all. Such was the case in the employment of a military cavalry posse of regular troops in a midnight attempt at Provo and Springville on the nights, respectively, of 10th and 12th of September, to arrest parties indicted by the grand jury for murder. There was no justification for the employment of the military posse, there was no likelihood of resistance of the civil authorities, it was a wanton display of excessive power on the part of the U. S. Marshal. It greatly alarmed the people of the two towns, and awakened widespread resentment among the people of the Territory, to such an unwarranted employment of military force.¹⁴

of competent jurisdiction.' He deems himself invested by the legislature of the Territory with certain duties and responsibilities; he has given bonds for the faithful performance of those duties and the discharge of those responsibilities. It is but little to ask, when he is called upon to divest himself of these responsibilities, and to cease to perform those duties, that he should do it on some demand more formal and some decision more binding than the construction of an act of Congress made by the United States marshal. * * * However, we have perhaps cause to congratulate ourselves that the guns of the Fort have not been turned on the city, and the City Hall surrounded with cavalry, infantry and artillery, and the warden compelled at the point of the bayonet to surrender his prisoner."

Mr. Baskin—"That would have been my way to do it."

Mr. Fitch—"I presume that Mr. Baskin would have knocked the City Hall and city jail down?"

Mr. Baskin—"I would that!"

Mr. Fitch—"The acting law officer of the United States informs us that he would have 'let loose the dogs of war' had his advice been followed and his wishes consulted. And why were they not? Where was all the power which with all the pomp and parade of war once interfered to prevent by arms a peaceful parade episode of the previous July? Was it asleep? ashamed? or afraid?"

Governor Woods (who was seated on the right hand of Judge Hawley)—"Neither, my Lord!"

Mr. Fitch—"I am assured by the Executive of the Territory of Utah, who honors us with his audience and encourages the prosecution with approving smiles, that my surmises are incorrect. The Executive of the Territory, who perhaps agrees with the opinion once expressed by the present President of the United States, that 'the justices of the supreme court are members of the Governor's staff,' and who deigns to give to your Honor, as his staff officer, the benefit of his protecting presence, while at the same time he stands ready to answer questions of defendant's counsel, whether he be the party interrogated or no."

The Court—"This discussion is becoming exciting and I shall not permit further remarks outside the case."

Mr. Fitch—"I beg your Honor's pardon,—but I have not traveled out of the proper line of argument, except to comment upon interruptions, made irregularly by Mr. Baskin, and improperly by Governor Woods." (See *Deseret News*—Weekly—of Sept. 13th, where the court proceeding in full is given).

14. The men wanted were H. L. Davis and J. J. Baum. In the latter part of December Baum had killed one Richard Brown, who had seduced and then refused to marry his niece, notwithstanding her pleadings with him to do so. It was not known at first who killed Brown, Harry L. Davis was accused of the crime but during the inquest at Provo, when David was under examination Baum entered

The federal officers in Utah were not all agreed as to the wisdom or the legality of the procedure invoked in Utah under this Shaffer-Woods-McKean *regime*. C. H. Hemstead, U. S. District Attorney for Utah since 1868, refused longer to be connected with it. His resignation took place about the time of the opening of the September term of the third judicial district, and was accepted by Judge McKean who immediately appointed R. N. Baskin to discharge the duties of that office;¹⁵ and General Geo. R. Maxwell acted as his assistant, both gentlemen were pronounced anti-Mormons, and from them the McKean judicial policy could hope for strong support.

Considerable progress had now been made in the development of the evident conspiracy against "Mormon Theocracy" in Utah. By Governor Shaffer's administrative act the commander of the Utah militia elected by the people according to the Territorial law, had been set aside, and a new commander—P. E. Connor, of past and present [1870-5] anti-Mormon fame—had been illegally appointed by the Governor in his stead; the probate courts had been stripped of their criminal jurisdiction—the courts of the people, in whose justice they had confidence; said courts were also, contrary to law, deprived of participation in the choosing of grand and petit jurors; the Territorial Marshal and Territorial Attorney had been rejected as officers in the federal courts in Territorial cases; the juries, grand and petit, were to be selected by the U. S. Marshal on open veneri; it had evidently been determined that there would be no naturalization of Mormon aliens; the U. S. Marshal would have charge of the penitentiary; the U. S. military—according to the

the court room and confessed to the killing of Brown for the reason stated, and also for the further reason that Brown had threatened his life. The inquest court returned a verdict of justifiable homicide; and Brown and Davis were both released. A packed grand jury, however, got out an indictment against both Brown and Davis and their arrest was attempted as described in the text above. See *Deseret News*—Weekly—of Jan. 11, 1871; also of 13th and 20th September, 1871; and Whitney's Hist. of Utah, Vol. 11, p. 592—note. Also Deseret News of Oct. 4th, 1871, where it is alleged that the death of Mrs. Davis was hastened by fright on account of military "raid."

15. See Reminiscences of Early Utah, Baskin, p. 38. According to Mr. Baskin McKean read from U. S. statute a provision which authorized a district Judge, in case of a vacancy in the office of district attorney, to appoint a person to exercise the duties of the vacant office until such vacancy should be filled. Baskin consented to accept the appointment. Id. Mr. Baskin had been the assistant to Mr. Hemstead for some time previous to this.

recent Provo-Springville precedent—could be relied upon as a *posse commitatus* in aid of the *regime*.

In all this one cannot fail to see that the evident intention of the group of federal officials now in charge of affairs in Utah was to accomplish, without the sanctions of law, what the congress of the United States had refused to authorize when it denied passage to the outrageous Wade, Cragin, and Cullom bills. Congress had refused to pass these measures, which would have turned Utah over to the rapacity of the hungry pack patriotically anxious to despoil her. But what Congress had refused to grant by special enactment, the conspirators determined to take by means of assumed powers, and by the wresting of the law to their own vicious purposes. And those purposes? Undoubtedly the overthrow of the Mormon leaders; the breaking down of the political power of the Mormon people—the people who had redeemed Utah from a desert waste and given it to civilization—these people who, under American principles, were entitled to the sacred and guaranteed rights of self-government, under the National Constitution and the Organic law of the Territory,—were to be despoiled of their political heritage; and with them thus dispossessed of, or limited in their rights, the conspirators, McKean, Woods, Baskin, Maxwell, *et al.*, were to bring Utah into the Union, themselves and associates to become the senators, representatives, governors, judges, etc.—in a word, become the ruling class in the new state, while the people of Utah should be blessed with the privilege of continuing to make the desert lands fruitful by their toil, and pay the taxes. Utah under these bright prospects looked like exceedingly “good picking” to the hungry horde of office-holding and office-hunting adventurers who had now beset her.¹⁶

16. Let it not be thought that these are prejudiced Mormon views. The facts set forth in the foregoing paragraphs warrant the conclusions, and very many leading papers in the United States east and west charged the group of Utah and Washington conspirators with such designs. The Omaha *Herald* for instance in a leading editorial, speaking of this anti-Mormon conspiracy said: “This conspiracy began with the advent of the existing herd of federal mercenaries to Utah. It crystallized under the agitation of the Cullom bill which was drawn in Salt Lake. The object was to break down the political power of the people who had conquered Utah from a desert waste into a beautiful garden. This was necessary to enable these malignants to occupy, possess and control it. With the fall of the Mormon power McKean, Woods & Co., were to bring Utah into the Union as a State, and become Senators of the United States, and heroes in a land already suffering from a surfeit

In the several steps taken in the development of the conspiracy against "Mormon Theocracy" the stage was exceedingly well set for what is immediately to follow.

At the September term of court, 1871, a Territorial law passed by the legislature in 1852, to punish "adultery," and "lewd and lascivious association" was invoked in the crusade against Mormon polygamy. Of course the statute was not intended by the Utah legislators to apply to polygamy, and there was on the statute books the congressional law especially passed against "bigamy," to meet supposed conditions in Utah; but it was thought that more successful prosecutions could be made under the Territorial than under the congressional law, since under the latter the plural marriage as well as the first one had to be proven in order to conviction. Besides the penalties of the Territorial law were greater.

The first victim of this new departure was one Thomas Hawkins. The territorial statute in question provided that "no prosecution for adultery can be commenced, but on the complaint of the husband or wife." In the case of Hawkins, who had mar-

of such. The Cullom Bill failed. Far fetched edicts of the law, promulgated through stump speeches from the bench, likewise failed. The sceptre, not yet grasped, was departing. Something must be done. Criminal statutes must be invoked. Proofs of crimes other than that of polygamy must be secured. But before this is permitted, in pursuance of a deliberate plan, decisions must be promulgated whereby, under a thin disguise, Mormons, on account of their religious beliefs and practices, must be excluded from juries which would be thus necessarily constituted of their deadliest enemies—men who would do the known wish, if they did not obey the actual behests, of their desperate masters. And this is but a brief outline of a conspiracy which aims, at whatever cost, to destroy men and institutions in a Territory whose civilizing and industrial achievements are the admiration of mankind." (Omaha *Herald* of Oct. 4th, 1871). This is from the San Francisco *Examiner* of about the same date. "The whole thing (i. e. the Mormon trouble) is instigated by a 'ring' of Republican politicians, who are looking to the speedy admission of Utah as one of the states of the Union. These small fry, popinjay politicians, and would-be statesmen, know full well that they will have no show for promotion until the Mormon power is broken. Hence it is that they seek to create a civil war by means of packed juries, unprincipled judges and perjured witnesses. Of course, if they determine that no Mormon shall sit on a jury to try Young, as all were excluded from the grand jury, he will necessarily be convicted. Having the judge and marshal they can pack a jury to suit themselves. If they can send Brigham to prison, and induce the people to rise up and liberate him, and thus produce a conflict, Utah will be at once admitted as a state, and under the protection of federal bayonets, these mischief makers can have themselves elected senators, congressmen, etc., just as the thieving carpet-baggers did at the South. The whole affair is a disgrace to the American name. That a vile, little clique of corrupt politicians should be permitted to use the power of the government to embroil a peaceable community in civil strife, to gratify their personal greed for place and plunder, is an outrage upon decency, humanity, and justice." (Copied into *Deseret News* of Oct. 25th, 1871).

ried a plural wife, under the sanctions of the Mormon Church, the first wife entered complaint before the grand jury, and an indictment was found for violation of the act of the Territory of 1852. On trial Hawkins was found guilty of "adultery" and sentenced to three years imprisonment and to pay a fine of \$500. He appealed his case to the Territorial supreme court, but not being able to give the bond of \$20,000, demanded by the court, he was remanded to prison to await the time of hearing the appeal.¹⁷

The grand jury at the same term of court indicted President Brigham Young, but under a different section of the law, *viz.*, section 32; which provided that "if any man and woman, not being married to each other, lewdly and lasciviously associate and cohabit together . . . every such person so offending shall be punished by imprisonment not exceeding ten years, and not less than six months, and fined not more than one thousand, and not less than one hundred dollars, or both, at the discretion of the court." Setting aside then the fact of the marriage of Brigham Young to his plural wives, by sanction of the Mormon Church, the "packed" grand jury found an indictment against him for "lewdly and lasciviously associating and cohabiting with women, not being married to them."¹⁸ On the second of October he was arrested upon this charge; and his arrest was followed quickly by the arrest of Daniel H. Wells, Mayor of Salt Lake City, and President Young's second counselor; Geo. Q. Cannon, editor the *Deseret News*, and Henry W. Lawrence, the last a leader in the late "Godbeite movement."

A motion to "quash" the indictment was made by President Young's council on the plea that the grand jury was not legal, not being impaneled as provided by law either of the Territory or of the United States; and that the inclusion of sixteen counts in one indictment, not being different parts of one offense, nor different statements of the same offense, or in any wise connected with each other—were illegal. The Judge overruled the

17. The trial of the case appears in Utah Reports, for 1871, p.— See also Baskin's Reminiscences Ch. V. It was a standing jest of the times that the pompous lecture given by the Judge to Hawkins was greater punishment than the imprisonment and fine. The speech of the Judge will be found in the *Deseret News—Weekly*—of Nov. 1st, 1871.

18. The indictment contained sixteen counts and charged as many offenses, extending from 1854, to the finding of the indictment, 1871.

motion. It was on that occasion that Judge McKean used phraseology that has become somewhat famous in Utah annals, and which confessed the true inwardness of this whole court procedure at that time, and proclaimed the mission character of Judge McKean's appointment:

"Let the counsel on both sides, and the court also, keep constantly in mind the uncommon character of this case. The Supreme Court of California has well said: 'Courts are bound to take notice of the political and social condition of the country which they politically rule.' It is therefore proper to say that while the case at bar is called *The people versus Brigham Young* its other and real title is *Federal Authority versus Polygamy Theocracy*. The government of the United States, founded upon a written constitution, finds within its jurisdiction another government—claiming to come from God—*imperium in imperio*—whose policy and practice, in grave particulars, are at variance with its own. The one government arrests the other in the person of its chief, and arraigns it at this bar. *A system is on trial in the person of Brigham Young.* Let all concerned keep this fact steadily in view; and let that government rule without a rival which shall prove to be in the right."¹⁹

President Young was in court during the above hearing. When his counsel several days before had asked extension of time to prepare the case, and the fixing of bail—since his client was nominally in charge of the U. S. Marshal—the assistant prosecuting attorney, Gen. Maxwell, objected. "He wanted the defendant to come into court to plead to the indictment. 'The people,' he said, 'demanded that Brigham Young should appear in court the same as anybody else.' The court granted the extension of time . . . but said the bail could not be taken until the defendant pleaded to the indictment." So the defendant came into court to plead to the indictment; and such was the quiet and dignified bearing of the great Pioneer; that he won golden opinions from all who observed him that day.²⁰

19. *Deseret News*—Weekly—of Oct. 12th, 1871, p. 436. Formal Exception was taken by President Young's Council to the prejudice-creating effect of the passage. See signed communication in the court record, and *Deseret News*—Weekly—of Oct. 18th, 1871.

20. The Salt Lake Tribune, notwithstanding its anti-Mormon bitterness, and the fact that it was backing with all its might the proceedings of the anti-Mormon "ring" of Utah, could not withhold its praise. In an editorial commenting on the court procedure of the day before under the title, "*Brigham Young in Court*," the

All the parties arrested at this time were admitted to bail in the sum of \$5,000 each; and President Young, as had become his custom in late years took his departure for St. George on the 24th of October, to spend the winter; but it was soon reported, and much discussed through the press of the country at the time, that he had "fled from justice." Meantime the President was filling a rather extensive itinerary in the settlements of the Rio Virgin valley, holding many public meetings and enjoying the friendship and hospitality of the people, of which he wrote to Elder George Reynolds under date of December 11th, 1870.²¹

Tribune said: "It was a decidedly novel spectacle yesterday afternoon to see the 'Lion of the Lord' sitting in the court room waiting for the coming of his earthly Judge to try him. * * * There can be no doubt that the President of the Church of Jesus Christ of Latter-day Saints made several very good points yesterday. His being there a quarter of an hour before Judge McKean, patiently waiting his coming, was very wisely arranged, and looked well on an occasion which opens a series of circumstances destined to form a chapter of history. His appearance in court, too, his quietude, and an altogether seeming absence of a spirit chafing with rage at being brought to trial, evidently made a good impression. If there was any malice against him before, the sight of Brigham Young, at least practically acknowledging the authority of the United States to try him, even for the highest crimes known in the law, and the respectful bearing which he put on, disarmed much of that malice. The moral effect of Brigham's appearance and the conviction of innocence which it produced, brought Major Hempstead to his defense, and he plead very powerfully in his behalf, occasionally throwing a spicie of wit at the prosecution. The editor of the *Videcise*, who sought years ago to 'reconstruct and regenerate' Bro. Brigham, yesterday afternoon eloquently objected to the proposition to reconstruct and regenerate the Prophet and urged the indictment should be quashed. It is evident that President Young's thus coming into court, and his resolution to abide every trial, and contest the charges brought against him constitutionally, through his counsel, was the very wisest course he could have taken. It will divide people in his favor and bring many of the Gentiles to the help of Israel even as it has already brought two of their lawyers to the defense of the Prophet. Perhaps there was more respect and sympathy felt for Brigham Young, when he left the court-room, feeble and tottering from his recent sickness, having respectfully sat in the presence of his judge three-quarters of an hour, after bail had been taken, than ever there was before in the minds of the same men."

21. See *Mill Star*, Vol. XXXIV, p. 28. The arrest of President Young in any event would have created a sensation throughout the United States; but the misrepresentations attendant upon its announcement greatly intensified the sensation. For example, following are the scare head lines in the New York *Herald* of Oct. 1st, telegraphed from Salt Lake City by Oscar S. Sawyer, managing Editor of the Salt Lake *Tribune*. It is to be observed that since these scare head lines appear in the New York *Herald* on the first of October, a day before the arrest of Brigham Young, the *Tribune* managing Editor was evidently in the confidence of the prosecution as to the intended arrest of Brigham Young:

"BRIGHAM YOUNG HAS BEEN INDICTED

"On several charges, and it is also said that he is likely to be tried the coming week on one of the indictments.

"THE MORMONS ARMING.

"The sale of muskets and ammunition continues, and it is reported that more arms than those bought at the recent government auction sale at Camp Douglas have been disposed of.

Quite unexpectedly, on the 20th of November, the very day on which President Young started on his journey to the southern settlements the prosecution called up the case of "The People vs. Brigham Young," Mr. Baskin saying that the prosecution was ready to proceed with the case. Defense asked for a postponement of the case to the March term "according to previous expectation." Mr. Baskin stated that from public rumor it was known that the defendant had gone outside the jurisdiction of the court and he should demand a showing and a forfeiture of his bond in case of his non-appearance. Mr. Hempstead, counsel for President Young, would be ready for trial whenever the court should set down the case. With the understanding of his counsel that a reasonable time would be granted for trial, the defendant had taken his usual winter journey to the south for the protection of his health against the severity of the climate. Mr. Baskin rebuked the counsel for so advising the defendant. Seven days later the court again took up the case, the prosecution insisting that they were entitled to the forfeiture of the bond; and the counsel for the defense asking that a reasonable time be given to bring defendant into court. Mr. Hempstead charged, though in negative form, that the prosecution by insisting upon the forfeiture of the bond only did it for the purpose of having it heralded abroad that Brigham Young had forfeited his bail and fled from justice. If the case could not be postponed until the March term then the defense would ask for a day to be set as far in advance as possible. The court refused to declare the bond forfeited, *but set the day of trial one week from that time*—from the 27th of November, to the 4th of December. As it was practically impossible for the defendant to be brought from St. George by that time, the bond for all practical uses might as well

"EXCITEMENT AMONG THE SAINTS.

"The feeling of the Mormon people, as reflected by the church organs, the *News* and *Herald*, is unmistakably rebellious and warlike. The *News*, the official organ for Brigham Young, is extremely bitter and offensive. It advocates

"OPEN RESISTANCE TO THE LAWS.

"Libels United States officials, and endeavors in every way to incite the people to open rebellion. Under these influences many persons are sending off their wives and children to points where there will be no danger. The church organs are doing everything in their power to fire the Mormon heart, and the result cannot but be disastrous if the fanatical element is once aroused and fully loosed."

have been declared forfeited. It was in vain that counsel for the defense pleaded the impossibility of having defendant in court by that time, and asked for two weeks instead of one. The court's answer to such pleading was "*the day of the trial has been fixed for a week from today.*"

Meantime things had been happening elsewhere. That afternoon when Judge McKean overruled the motion to quash the indictment against Brigham Young, and announced that a system was on trial in the person of Brigham Young, United States Senator, Oliver P. Morton, of Indiana, and his party, which included the Editor of the *Indianapolis Journal*, Mr. Fishback, the Senator's social and political friend, were present. Under date of October 12th, and headed, "On The Pacific Road," Mr. Fishback wrote in his *Journal* the impressions upon the party of the McKean Court proceedings as they witnessed them on the aforesaid afternoon. Excerpts follow:

"After a full and free conference with the leading Mormons, Federal officers and business men of Salt Lake City, we predict that a dreadful civil war will soon be raging in this fertile region, resulting in the loss of thousands of lives, the expenditure of millions of public treasure, and the complete devastation of one of the most beautiful and thriving regions on the continent, unless the administration interferes with the schemes of the petty lords of misrule, who are doing their utmost to bring it about.

"It is unfortunate for the nation that it is in the power of such men as Judge McKean and the deputy district attorneys, Maxwell and Baskin, to precipitate a collision between the Federal authorities and the Mormons, in a contest in which the government occupies a false and untenable position. . . .

"We are convinced that the pending prosecutions are conceived in folly, conducted in violation of law, and with an utter recklessness as to the grave results that must necessarily ensue. How does the matter stand? There is a vacancy in the office of United States district attorney for the Territory of Utah. Judge McKean has appointed two lawyers, Maxwell and Baskin, to act as deputies. These deputies boast that they have instigated the prosecution and assume great credit for the disingenuous trickery by which they hope to force a conflict whose consequences they have not the capacity to measure or understand. It is much to the credit of President Grant's adminis-

tration that these deputy prosecutors arrogate to themselves the entire credit of conceiving the disreputable trick to which they have resorted to effect their purpose.”²²

The Journal’s “Editorial Correspondence” was widely quoted in the east, and did much to modify public opinion and call a halt upon the prevailing radicalism. It is also to be noted that in the consideration of Utah questions as they arose in the U. S. Senate, in the following session of Congress, Senator Morton, together with Senator Lyman Trumbull exerted their influence on the side of conservatism in dealing with Utah affairs.²³

Early in November, Geo. C. Bates was appointed by President Grant to be U. S. district Attorney for Utah, succeeding the unlawfully, but McKean—appointed R. N. Baskin. He arrived in Salt Lake City on the 30th of the same month. On the 4th of December, the day set for the trial of Brigham Young, and the defendant not being present in court, Mr. Bates moved the forfeiture of the bonds, the defense, of course, protesting, Judge McKean refused to grant the motion to forfeit the bond and adjourned the court to the 9th of January, but not before Mr. Bates had served notice that on that date he would call up the case of the People *vs.* Brigham Young, and press it for trial.²⁴

President Young, while visiting the settlements in the Rio Virgin Valley, had of course been kept informed relative to the progress of things in the north, and the question arose as to the wisdom of his returning to Salt Lake City to face his enemies, for it was known, as will appear presently, that more formidable charges were to be met than the silly one of “lascivious cohabitation.” There was a general feeling among the brethren that it would be best for him not to return to fall into the hands of his enemies, but the impression of the spirit upon President Young’s mind was that it would be best for him to return, and accordingly preparations were made, and on the

22. The Letter is published in full in *Deseret News*—Weekly—of Nov. 8th, p. 464.

23. See Congressional Record of 1872, *passim*.

24. The minutes of the court’s session are given in full in *Deseret News*—Weekly—of Dec. 6th, 1871, p. 515.

evening of the 17th of December (Sunday) after holding public meetings in St. George, the northward journey was begun.²⁶ The second day's journey brought them to Kannarrah, in Iron county. Here they met the veteran life guard of the Prophet Joseph Smith, John D. Parker, "who wept like a child because President Young was going back to face his enemies in the court room, which he considered an act of madness." "This feeling was very general with all the people the party conversed with as they passed through the southern country," says the journal of the party; "but President Young told the people that God would overrule all for the best good of Zion."²⁷

At Cedar on the 20th of December the President's party was met by Orin P. Rockwell, Joseph A. Young, son of President Young, Orson Arnold—the one man wounded in the "Echo Canon War,"—it will be remembered; he came to act as President Young's teamster. Beaver was made by the 21st, and up to this time the weather had been mild. It was the intention of the party to make an evening drive to Cove Fort, but as the teams were being set to the vehicles a blinding snow storm came on and the drive was abandoned. This proved fortunate, as Elder Munsen who went on in the evening with the Peoche coach had to walk all the way facing a storm. Several times they lost the road. General Connor was a passenger on the coach, he expressed himself strongly against the prosecution of Brigham Young, and offered to sign bonds to the extent of \$100,000 in favor of Brigham Young if he could be admitted to bail.²⁸

26. Hist. of Brigham Young, Ms. 1871, Vol. II, p. 2051. President Young was accompanied by his first counselor, Geo. A. Smith, William Rossiter—"telegraph operator"—R. T. Burton, Charles and A. F. McDonald, John Henry Smith, Amelia Young, and Bathsheba W. Smith, wife of Geo. A. Smith. (Id.).

27. *Ibid.*, p. 2076. It is common knowledge to those who were closely associated with President Young in his career that he was greatly influenced, and often against his own judgment, by what he called "the Light"; doubtless the inspiration of God to his mind. He would say when matters were up for consideration, "Brethren, the Light says so and so," which was generally the end of argument. So now on this question of his returning to face his enemies, he had said "*The Light says, Brigham, return.*" The application of this guiding principle in the present instance is made upon the statement of William R. Smith, President of the Davis Stakes of Zion, to the author, President Young having related his experience in the above instance to Mr. Smith.

28. *Ibid.*, History of Brigham Young, Ms. 1871, Vol. II, pp. 2101-2.

The next day the President's party drove to Cove Fort. About a foot of snow had fallen in Wild Cat pass, and in Pine Valley Mountains. Telegraph wires were down. At Cove Fort the party was joined by Culbert King and five others from Millard county, bringing fresh horses to break the road through the snow if needed. En route to Fillmore,—the old Territorial Capital,—“through Dog Valley, the storm was so fierce as to render it very difficult to see the animals or keep the road. Luckily, however, the wind was from the south; roads extremely muddy.” The party learned at Fillmore that it had taken the stage 29 hours from Fillmore to Nephi—62 miles. Telegraph line was interrupted north of Nephi.²⁹

At Round Valley the party picked up telegraphic communication with Salt Lake City, “ascertained the coast was clear; roads ahead muddy. Several brethren accompanied us temporarily supplying the places of some of the weaker animals with their fresh horses. President Young's horses were led.”³⁰

On the 26th President Young left the rest of his party and started from Nephi at 6.30 a. m., riding with Bishop John Sharp in an open buggy. The Bishop had joined the party at Nephi. They faced a severe storm from Nephi to Payson, in Utah county; thence drove to Provo; and later to Draper the terminus, at that time, of the Utah Southern Railroad. Here they were met by Daniel H. Wells and others, with a special train, which carried them to Salt Lake City, arriving at about 11.45 p. m. on the 26th of December.³¹ Such the journey of 350 miles in mid-winter, which Utah's great Pioneer made at the age of seventy-one to face his enemies in a United States court.

It was not to meet the petty charge of “lascivious cohabitation” that this journey of President Young's was made; but, as already suggested, he had learned that there existed a more serious charge against him, that of “murder.” In the previous November he had been jointly indicted with D. H. Wells, Mayor of Salt Lake City, and others, for the “murder” of one Yates, during the “Echo Canon War.” Mayor Wells, Hosea

29. Journal of the Party. *Ibid.* 2120.

30. Journal of the President's Party, *Ibid.*, p. 2153.

31. Journal of the Party. *Ibid.*, p. 2158.

Stout, formerly Attorney General of the Territory, and W. H. Kimball, had been arrested on the 28th of October, on the same charge. The Mayor was sent a prisoner to Camp Douglas, where he was in charge of General Morrow.³² Two days later he was admitted to bail in the sum of \$50,000. The prosecution resisted the Mayor being admitted to bail, but to the surprise of the other officers of the court, and the large audience in attendance, Judge McKean admitted the Mayor to bail; and when the prosecuting attorney insisted on \$500,000 as the bond, the court sharply answered—"No, the defendant will give bail in the sum of \$50,000."³³ The other parties to the alleged crime were not admitted to bail.

Acting U. S. District Attorney Baskin planned the indictment and arrest of Brigham Young on this charge of murder, on the strength of the confessions of the notorious "Bill" Hickman who had confessed to some eighteen or twenty murders.³⁴ In his recently published Reminiscences³⁵ Mr. Baskin states that some time before his appointment by Judge McKean, he had private interviews with Hickman, for whom warrants of arrest were out, and who, to him, made confession of a number of murders. Hickman at the request of Mr. Baskin consented to go before the grand jury, and Baskin handed to Major Hempstead the statement of the self-confessed murderer, with the announcement that Hickman was ready to go before

32. It was only over Sunday, however, that he was detained at the Camp, where he was more the guest of General Morrow than his prisoner, "at whose table he ate with the General and Mrs. Morrow, at whose respectful request the honored prisoner asked a blessing over the food." Hist. of Salt Lake City, p. 546.

33. The announcement by the Judge that the prisoner [Wells] would be admitted to bail brought forth hearty applause in the court room for nobody supposed that bail would be allowed in any sum. Indeed the counsel for the defense thought it useless to make the application for it. "It was Mayor Wells himself who prompted Mr. Fitch to apply to the Court of Judge McKean for a writ of *habeas corpus* to be brought before the court to be held to bail. Mr. Fitch said it would be in vain; Judge McKean would not grant the bail; but the Mayor persisted in the inward prompting that "*the Lord would interpose*" and thus spurred by the faith and judgment of the prisoner, counsellor Fitch sat down Saturday night and all day Sunday to his work and prepared one of the most masterly efforts of his life, which, strange to say, Judge McKean prevented in its delivery by granting the bail. The applause in the court room was as genuine as the surprise was great, from non-Mormons as well as Mormons." (Hist. Salt Lake City, p. 545).

34. See Beadle's "Brigham Young's Destroying Angel, Being the Life, and Confession of 'Bill' Hickman"—1872.

35. Reminiscences of Early Utah by R. N. Baskin, Ex-chief Justice of the supreme court of Utah, June, 1914.

the grand jury.³⁶ It was at this point that Hempstead resigned and Baskin was appointed by McKean to fill the vacancy.³⁷ Becoming acting U. S. district attorney Mr. Baskin had the opportunity of doing what he had urged upon his predecessor to do, and hence the indictments for murder against Brigham Young *et al.*, upon the confessions of Hickman, with alleged "statements of other persons to me [i. e. Baskin, which nowhere appear] tended to corroborate his confessions."³⁷ This as well as the cases of "lewd and lascivious cohabitation" was Mr. Baskin's work.³⁸

He knew that the indictment of Brigham Young would cause great excitement, and if a "collision occurred it would be at the time Brigham was arrested on the charge of murder." "To meet such a contingency," he writes, "the United States Marshal had appointed about one hundred deputies, most of whom had been soldiers in the civil war, and General De Trobriand, commander of Camp Douglas had been ordered to furnish upon the request of the Governor a posse of soldiers to aid the Marshal."³⁹

Finally the *coup de main* in the arrest of Brigham Young on the charge of murder was ordered for Monday the 20th of November, but President Young by that time was in St. George, and the *coup de main* was a failure.⁴⁰

It was this failure of the *coup* that was the cause of the irascibility of the acting district attorney when he called up the case of "lascivious cohabitation" against Brigham Young on the 20th of November, and insisted upon the forfeiture of his bond.

36. Baskin's Reminiscences, pp. 36, 37.

37. *Ibid.*, pp. 37-38.

38. *Ibid.*, p. 37.

39. The matter of securing troops to aid in these arrests evidently went beyond Camp Douglas. A press dispatch from Washington, under date of Oct. 31st, said: "At the cabinet meeting to-day the subject of the Utah prosecutions was considered and it was determined that if necessary more troops will be sent to that Territory. It is known that some of the Federal officers asked for troops to aid in making arrests, but this was considered to be inexpedient, unless resistance should render additional force necessary." See *Deseret News* of Nov. 1st, 1871.

40. Mr. Baskin represents that it was the Sunday night previous to his planned *coup* that President Young secretly left Salt Lake City (see Reminiscences p. 55), where as the President's Letter to Elder Reynolds, written from St. George on the 11th of December, shows that previous to the 20th of November there had been an extensive itinerary performed along the line of settlements on the *Rio Virgin*. (See Mill. Star. Vol. XXXIV, p. 28).

He had been defeated in his larger plot against the man he had chosen for his judicial victim.

It was a dramatic incident when in the afternoon of the 2nd of January, 1872, Brigham Young accompanied by his counsel, *Messrs. Hempstead, Fitch, et al.*, and a large number of friends, walked into the court presided over by Judge McKean. His application through counsel for admission to bail was being considered when he and his friends entered the court room. A certificate of Dr. W. F. Anderson, stating that he was the attending physician of Brigham Young, and that confinement would in all probability prove fatal to him in the present feeble state of his health, and at 71 years of age, was read. The new prosecuting attorney, Mr. Bates, made no objection to bail being allowed. Mr. Baskin by now had been eliminated,⁴¹ hence Mr. Bates could say, as he did say, that "he stood there as the sole representative of the United States in this motion. He held that it was left to the discretion of the court as to whether bail be granted or not; bail, however, had been granted in instances "equally important with this case," and the district attorney referred to the cases of Aaron Burr, and Jefferson Davis. But if bail were granted, he should demand that it be in the sum of \$500,000. The judge declined to admit the defendant to bail; but granted him the privilege of selecting one of his own houses, and placing it at the disposal of the U. S. Marshal, if he should so elect, and defendant might be detained there under custody of the marshal until the time of trial.⁴² And this was done.

In addition to the arrests already noted during this period, and under Baskin-Maxwell's excessive activity, a number of others, including some of the city offices,—Alexander Burt, chief of police, and B. Y. Hampton, one of the force, being among the number,—were arrested on a charge connecting them with the J. King Robinson murder. They were detained in the city prison at first, but afterward were removed to Camp Douglas. According to the statement of Mr. Bates published by the N. Y.

41. Although Mr. Baskin became the assistant district attorney by appointment from Washington, it soon became apparent that the district attorney and his assistant were not in harmony with each other, and Mr. Baskin resigned. *Reminiscences*, p. 57.

42. Proceedings of the court in this case are published in *Deseret News—Weekly*—of Jan. 10th, 1872, p. 599.

Herald Washington Correspondent, under date of January 25th, about twenty prisoners were confined at Camp Douglas, at great expense to the government.⁴³ Meantime the judicial crusade was meeting with insurmountable difficulties. The Judges in Utah had declared the district courts to be United States courts, as well when trying cases under Territorial statutes as when trying cases under federal statutes, and the United States a party to the cause; and that the proper officers of such courts were always the United States district attorney and the U. S. Marshal. The department of justice at Washington, however, did not take this view of the case, and when the bills for expense of these "United States courts" and their "officers" were presented, they were not allowed.⁴⁴

Congress was appealed to, and asked to make a special appropriation to cover the expense of these courts, but congress is slow in such matters.⁴⁵ United States marshal, Mr. Patrick, applied personally to the Territorial auditor, William Clayton, for funds with which to pay court expenses, but that functionary after applying in writing to the attorney general of the Territory for instructions received a written opinion in which law authorities are cited at length to show that the Territorial marshal alone was authorized to draw the warrants for these expenses, and his authority to do that limited to the expenses of Territorial courts. The author answered accordingly.⁴⁶ The indebtedness of the courts by this time amounted to \$15,000; the greater part of which, owing to the anti-Mormon zeal of the U. S. marshal, Mr. M. T. Patrick, had been advanced by him. The rest was due to jurors and witnesses.^{46½}

43. The *Herald* article is copied into *Deseret News* of Feb. 21, 1872.

44. "The United States comptroller," said district attorney Bates, in a letter to Senator Lyman Trumbull, (Dec. 30th, 1871) "disregarding the ruling of our supreme court here [Utah] decides that all these offenses are against *Territorial laws*, to be punished only in *Territorial courts*, by *Territorial officers* thereof, and that the United States treasury must not and shall not pay a penny of these costs. The result of which is that all jurors and witnesses' fees and contingent expenses of these courts for the last year are unpaid, and there is not now a cent to pay them either for the past or future." (Copied in *Deseret News* of Jan. 17th, 1872).

45. The whole correspondence and opinion as submitted to the legislature is published in *Deseret News—Weekly*—of Feb. 7th, 1872.

46. This whole matter with the official correspondence between Mr. Bates and the department of justice, was by him, early in January, brought into the third district court, presented and made part of the court record. It is published in full in *Deseret News—Weekly*—of Jan. 17th, 1872.

46½. *Ibid.*

The only Territorial officer authorized to direct the payment of court expenses—Territorial marshal—the federal judges had ruled out of existence;⁴⁷ and the Territorial legislature could not be expected to pay the expenses of courts and their officers, when the federal judges in their decisions had annihilated them.⁴⁸ A deadlock therefore had been brought about by the over-smartness of the federal crusaders, and Mr. Bates was compelled to ask,—the U. S. Attorney General at Washington directing him to do so—for a continuance of the twenty odd cases then pending, to the March term, by which time it was hoped congress would have provided the necessary means for carrying on these prosecutions.⁴⁹ In the preceding March term Judge McKean had been compelled to dismiss the grand and petit juries for the reason that there was no way in which payment of their *per diem* allowance could be made; and at the same time he stated that there was then on the docket of his court, “awaiting trial, civil cases involving millions of dollars.”⁵⁰ To such a pass had the cunningly planned judicial crusade brought civil and criminal affairs in Utah.

47. See letter of John D. T. McAllister, Territorial marshal, under date of March 14, 1871. Judge McKean in an address to the grand jury had said: “The high priesthood of the so-called Church of Jesus Christ of Latter-day Saints who control the assembly, and all the officers of, or who are elected by, the assembly, refuse to permit the expenses of the U. S. courts to be paid unless they are allowed to control those courts.” Marshal McAllister in the letter above cited answered: “I alone have refused the funds for the payment of U. S. officers and expenses of the courts when doing U. S. business. If his honor wants to hold courts for Territorial business he should order venires to be placed in my hands. I then will summon, according to law, by drawing from the ballot box of each county the names of jurors certified to by the clerk of the county; such jurors so drawn, lawful, good, and true men, can get their *per diem*, and the expenses of the courts paid.” The marshal also said that he had always had funds—had then—to pay the expenses of the district courts for the Territory, and the assembly “allowed all my bills for 1869, something over four thousand six hundred dollars.” See *Deseret News—Weekly*—of March 22, 1871, both for the Judge’s address to the jury and the marshal’s letter.

48. The U. S. district attorney, Mr. Bates, expressed the hope, however, when describing the state of things judicial in Utah—and this in open court—that “the Territorial legislature which meets today, will see the propriety on their own part, of providing funds in order that their leaders may be vindicated if unjustly accused, and punished if guilty, of the high crimes charged against them.” *Ibid.* The legislature remained obdurate to this and all other appeals upon the subject.

49. The court proceedings in these matters will be found in *Deseret News* of Jan. 17, 1872.

50. Judge McKean’s address to the grand and petit jurors was a very bitter document, and fairly hisses with the malice and hatred this Judge bore to the Church of the Latter-day Saints. All the embarrassment and hindrance to the “crusaders” against “Mormon Theocracy,” he charges to the “High priesthood of the so-called church of Jesus Christ of Latter-day Saints.” The address is given in full in *Deseret News—Weekly*—of March 22nd, 1871.

District Attorney Bates at the request of the U. S. Attorney at Washington, went to the capital to advise the department of justice with respect to conditions prevailing in Utah.

Soon after his arrival in Washington, and after communication with the attorney general, and by the latter's direction, U. S. district attorney Bates telegraphed to his deputy, James L. High, to move the third district court to admit to bail all the prisoners under arrest, and awaiting trial. Mr. High, relying on this authority, which he produced before the judge in chambers, made the motion for bail in each case,—including, of course, President Young's. "In behalf of the government, and in the name of the attorney general of the United States," said he, "I make this motion." The answer of the judge was—"I refuse to admit these prisoners to bail." In his ruling he declared that the granting of bail in these cases would establish a dangerous precedent; that there were reasons which could not "be made public why these prisoners could not be admitted to bail," and which he held Mr. Bates could not have communicated to the attorney general. Indeed the judge openly and from the bench accused Mr. Bates with having made "serious misstatements," in other particulars, in regard to affairs in Utah. "I am placed here to decide under the laws all judicial questions that shall arise in this district court," said the judge, "and were I now to shrink, or swerve from a plain duty, it is not improbable that the irresponsible magistrate called 'Judge Lynch' would assume the seat which I would thereby have proved myself unworthy to hold."⁵² It is evident that the Judge thought his position an heroic one.

It was doubtless such representations as the one in the above paragraph, supplemented as they were by the influence which Rev. Newman still had with President Grant that led to the request for the resignation of attorney Bates; a request which that gentleman refused to comply with, however, on the ground that there were no charges brought against him.⁵³

52. The proceedings in chambers are published in full with the ruling in *Deseret News—Weekly*—of Feb. 11th, p. 9.

53. "In this connection," said a Chicago dispatch of March 11th, to the Salt Lake Daily *Herald*, "it may be stated that Dr. Newman had an interview recently with the President; wherein the latter was urged to persist in the prosecution of the Mormons, as the country would not endorse any compromise with the anom-

Such were the conditions in Utah, judicially, when there came over the wires from Washington the message that the Supreme court of the United States had reversed the decision of the Supreme court of Utah in the Engelbrecht case. The dispatch thus summarized the decision:

*"Jury unlawfully drawn: summonses invalid; proceedings ordered dismissed. Decision unanimous. All indictments quashed."*⁵⁴

The effect of the decision in Utah, though tremendous, was unattended by any excitement, or extravagant conduct whatever, the press dispatches of the period to the contrary notwithstanding.⁵⁵ A great relief came to the Territory, and to

lous condition of affairs in Utah. Dr. Newman ended by stating that Bates' resignation should be demanded both as a matter of policy and justice."

54. The decision was written by Mr. Chief Justice Chase and will be found in 13 Wallace Reports, pp. 659-63. The New York *Tribune* thus summarized the effect of the Supreme Court's decision: "The effect of this decision is to make void all criminal proceedings in the Territorial court of Utah during the past year, [eighteen months] and render necessary the immediate discharge of 138 prisoners who have been illegally held, at an expense of from \$40,000 to \$50,000, which there is no law to provide the payment of, and to affect in the same way all civil cases in which exceptions were taken to the legality of the juries. It is said that 20 or 30 of these civil cases have been appealed to the Supreme Court. The decision is considered as very damaging to the National Administration, as Judge McKean was supported in the course he took by the President, though Attorney-General Williams was always of opinion that the proceedings in Utah were illegal. The prosecution of the Mormons was known to be a distinctively administration measure, set on foot by the advice of the Rev. Dr. J. P. Newman, after his return from Salt Lake, where he went to discuss polygamy with some of the prominent Saints." (Copied into *Mill. Star*, Vol. XXXIV, pp. 297-8).

"After the Englebrecht case was reversed, it was again tried and the plaintiff recovered a judgment. And as it was doubtful whether even the original cost of the liquor could be obtained on execution, the plaintiff accepted the offer of the defendant's attorney to pay the original cost of the property destroyed. That amount (\$20,000) was paid by money taken from the city treasury" (Baskin's Reminiscences, p. 35).

55. On April 20th, to counteract the lying press dispatches sent out from Salt Lake City reporting great excitement, and representing that the "Mormons were turbulent and threatening," nine prominent non-Mormons in business and professional life joined in a dispatch to Delegate Hooper at Washington declaring there had been no excitement over the decision of the Supreme court. "As all the citizens here know the aim of the press agent is to create excitement, or make it appear to exist, to provoke congressional action." Then the signatures. Shortly after this, special telegrams were sent to the San Francisco *Chronicle* and the New York *Herald*, from the crusaders, representing that the excitement in Salt Lake City was great, "bloodshed is imminent," etc. This brought forth a joint telegram signed by twenty-seven prominent Gentiles, among whom were "Warren Hussey, First National Bank; Theo. F. Tracy, Agt. Wells Fargo; B. M. DuRill, Pres., Salt Lake City National Bank; "saying that the aforesaid dispatches to the *Herald* and *Chronicle* were not true; and in addition affirming that "life and property are to-day as

the Latter-day Saints especially. All the evil and malicious schemes of the crusaders against "Mormon Theocracy" during the past two years were overthrown. The right of an American community to something like local self-government under the constitution, and the organic act, and the laws was maintained. They were not to be the helpless victims of scheming adventurers and worn out political hacks sent into their midst as federal officers. The taunts of the latter and their jeers were at an end; their whole course was now decided to have been illegal.⁵⁶

At first there seems to have been a very frank willingness on the part of the Utah federal officials to accept the consequences of the Supreme court's decision as affecting the release of prisoners. "Upon receipt of a certified copy of the decision of the Supreme Court," wrote Mr. James L. High, assistant U. S. attorney for Utah to Judge Z. Snow, attorney general of the Territory, "I shall move the immediate discharge of all prisoners now in the custody of the U. S. marshal in this district."⁵⁷ There seems, however, to have been some delay in carrying out this plan, and Brigham Young sought release by writ of *habeas corpus* before Elias Smith, probate judge of Salt Lake county; and on the 25th of April the court ordered his release.⁵⁸ For some time the court's favorable decision in Utah had been anticipated. It was expected that it would be deliv-

secure in Utah as in any state or Territory in the Union. * * * It is matter of deep regret amongst all classes of business men in this Territory, that the special dispatches sent from this city to the East are for the most part inaccurate and intensely irrational." Both dispatches here referred to with the signatures will be found in *Deseret News—Weekly*—the first in the impression of May 1st, p. 178; the second, in May 8th, p. 188.

56. The comments of the *press* in condemnation of the course of Judge McKean and suggesting and demanding his release would make a volume. The *Omaha Herald*, which throughout had condemned the Anti-Mormon regime, and stood up for the rights of the Latter-day Saints in Utah, could now indulge a little railery on the change which had come over the press of the country: "It would be amusing if it were not so utterly ridiculous and absurd, to see Chicago, and other papers, now that the highest tribunal in the land has exposed the wicked conspiracies and infamies of McKean & Co., in Utah, clamoring for his removal. After doing all they could to egg him on in his lawless course, now that he is crushed they affect the most empty indignation over his past course and present discomfiture."—*Omaha Herald*, copied into *Deseret News—Weekly*—of April 24th, 1872, p. 153.

57. The Assist. Attorney's Letter and Judge Snow's answer will be found in *Deseret News* of May 1st, 1872.

58. The Court record of the case is published in *Deseret News—Weekly*—of May 1st, 1872. The other prisoners, held at Camp Douglas, were released by action of the third district court five days later. (*Id.*)

ered soon enough to bring about the release of President Young in time for him to attend, as a free man, the annual conference which began on the 6th of April. The conference was continued until the 9th, but the hoped-for decision was not made. An adjournment was taken to Sunday the 14th. The decision was not yet announced and adjournment was taken to Sunday the 21st. By this time the joyful announcement of the decision was made, but the prisoners were not immediately released, as had been the hope of the Saints in the event of a reversal of the Utah court. Oh, "the laws' delays!" Oh, "the insolence of office!" The conference adjourned to meet on the 28th, then came the release by writ of *habeas corpus*, and the attendance of President Young at both the morning and afternoon sessions of the conference.⁵⁹ In the morning he exchanged greetings and carried on a colloquy with the congregation, which responded as with one voice;⁶⁰ and at the

59. President Geo. A. Smith said "he had fully determined to adjourn conference from one Sunday to another until President Young could attend, if it had to be prolonged until next October. See minutes of conference in *Deseret News—Weekly*—of May 21st, 1872.

60. When President Young was seen on the stand it was to "the great joy of the Saints, many of whom had come from various distant parts of the Territory, that they might have the pleasure of seeing him and hearing his voice." This was his salutation: "A word to the Latter-day Saints: Good morning. (Congregation responded, "Good morning"). How do you do? (Congregation replied, "Very well"). How is your faith this morning? ("Strong in the Lord," was the response.) How do you think I look after my long confinement? (Congregation replied "First rate"). I do not rise expecting to preach a discourse or sermon, or to lengthen out remarks, but I will say a few words to you. The gospel of the Son of God is most precious. My faith is not weakened in the gospel in the least. I will answer a few of the questions that probably many would like to ask of me. Many would like to know how I have felt the past winter, and so much of the spring as is now past, I have enjoyed myself exceedingly well. I have been blessed with an opportunity to rest; and you who are acquainted with me and my public speaking can discern at once, if you listen closely to my voice, it is weak to what it used to be, and I required rest. I feel well in body and better in mind. I have no complaint to make, no fault to find, no reflections to cast, for all that has been done has been directed and over-ruled by the wisdom of Him who knows all things. As to my treatment through the winter, it has been very agreeable, very kind. My associate, my companion in tribulation [i. e. the officer detailed as his guard], I will say, has acted the gentleman as much as any man could. I have not one word, one lisp or beat of the heart to complain of him. He has been full of kindness, thoughtful, never intruding, always ready to hearken and, I think, in the future, will be perfectly willing to take the counsel of his prisoner. So much for Captain Isaac Evans. . . . I have no reflections to cast upon these courts. How much power, ability, or opportunity would I have to possess, do you think, if all were combined, to disgrace them as they have disgraced themselves? I have neither the power nor the ability, consequently I have nothing to say with regard to their conduct. It is before the world, it is before the heavens continually." (Minutes of Conference in *Deseret News Weekly*—of May 1st, 1872.

end of the afternoon session President Young closed the conference with an impressive, impromptu benediction, that, as showing the spirit and character of the man under the stress through which he had just passed, is worthy of place here:

BENEDICTION

"I bless you in the name of Jesus Christ, as Apostles, with all that pertains to you; as High Priests, as Seventies, as Elders, as Bishops, as Priests, Teachers and Deacons. I bless you in the name of the Lord Jesus Christ. I bless you, my brethren and sisters, you that are parents, also the children. I bless you as musicians, as a choir to make music for us, and those who play on instruments. And I bless you strangers, and say unto you, peace be to you, as well as to the Saints, in good words, in good actions, in a good life to serve the Lord our God. I crave blessings upon the good everywhere, among all the nations, kindreds, tongues, peoples, sects and parties, wherever the honest and the pure in heart are found. God bless them, and I say peace to you from henceforth and for ever. Amen."⁶¹

61. *Ibid.*

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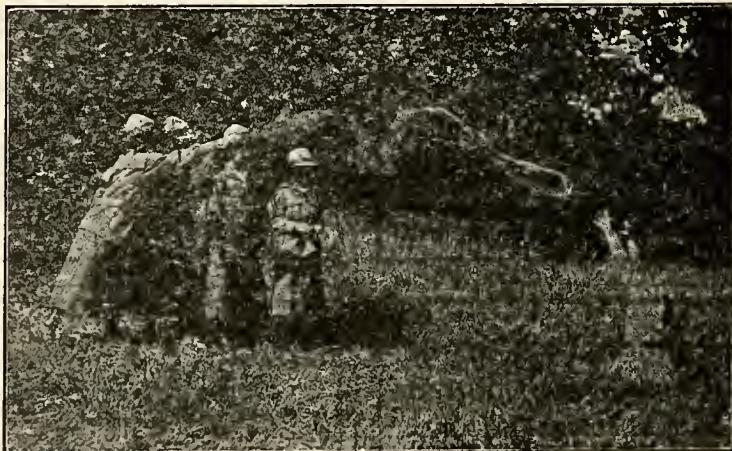
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